

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES OF AMERICA,)
) CASE NUMBER
) 2:11-CR-10(1)
 PLAINTIFF,)
)
 VS.) COLUMBUS, OHIO
) OCTOBER 24, 2011
 SEAN D. MURPHY,)
)
)
 DEFENDANT.)

VOLUME 5
TRANSCRIPT OF THE JURY TRIAL PROCEEDINGS
BEFORE THE HONORABLE GEORGE C. SMITH
UNITED STATES DISTRICT JUDGE AND A JURY

APPEARANCES OF COUNSEL:

FOR THE PLAINTIFF: SALVADOR DOMINGUEZ, AUSA
HEATHER HILL, AUSA
FOR THE DEFENDANT: SEAN MURPHY, PRO SE
DAVID GRAEFF, STAND-BY COUNSEL

GEORGINA L. WELLS & DENISE N. ERRETT
OFFICIAL FEDERAL COURT REPORTERS
(614) 719-3225

I-N-D-E-X

VOLUME 5 - OCTOBER 24, 2011

<u>WITNESSES:</u>	<u>PAGE NO.</u>
JASON COSTELLO - Direct Ex. by Ms. Hill.....	7
- Cross-Ex. by Mr. Murphy.....	28
- Redirect Ex. by Ms. Hill.....	120
- Recross-Ex. by Mr. Murphy.....	120
JANEL MEAD - Direct Ex. by Mr. Dominguez....	124
- Cross-Ex. by Mr. Murphy.....	138
HARRY TROMBITIS - Direct Ex. by Mr. Dominguez....	144
- Cross-Ex. by Mr. Murphy.....	151
DAVID NASSOR - Direct Ex. by Mr. Murphy.....	162
- Cross-Ex. by Mr. Dominguez....	174
- Redirect Ex. by Mr. Murphy.....	175
HARRY TROMBITIS - Direct Ex. by Mr. Murphy.....	177
- Cross-Ex. by Mr. Dominguez....	183
- Redirect Ex. by Mr. Murphy.....	185

- - -

1 Monday Morning Session

2 October 24, 2011

3 9:53 a.m.

4 - - -

5 (REPORTER'S NOTE: The jury is not present.)

6 IN OPEN COURT:

7 THE COURT: We have a request by Mr. Murphy to
8 interview David Nassor, who has already testified and been
9 cross-examined.

10 First of all, what is the Government's position on
11 that?

12 MR. DOMINGUEZ: Well, Your Honor, the one concern I
13 have -- and it, candidly, it's not a concern I have from a
14 personal perspective; but Mr. Nassor is, in fact, a represented
15 party. And an attorney and I don't believe a pro se attorney
16 can have contact with a representated party.

17 Obviously, Mr. Murphy has cross-examined Mr. Nassor
18 at length. The Court held him to be called on direct
19 examination. So, that would be my only concern: the ethics
20 involved, Your Honor.

21 THE COURT: Mr. Murphy, what is your plan here with
22 Mr. Nassor? Is it -- why do you have to interview him before
23 you put him on the stand?

24 MR. MURPHY: Well, Your Honor, we have -- first of
25 all, one of the first things that I would ask Mr. Nassor is if

1 he waives his attorney/client privilege. If he doesn't waive
2 it, I will not interview him.

3 There were certain issues that were brought up by Mr.
4 Doucette, and I would like to interview Mr. Nassor as my
5 witness, now, to determine if these are issues that should be
6 brought up on his recalling from the defense, Your Honor.

7 THE COURT: All right. Well, I'll question Mr.
8 Nassor to make sure he does not want counsel present, and
9 further advise him that he has agreed to cooperate with the
10 government in exchange for a favorable plea agreement, which
11 could be put in jeopardy if he fails to tell the truth.

12 All right. Call your next witness.

13 MR. DOMINGUEZ: Your Honor, if I may, I thought this
14 might be best brought up outside the hearing of the jury in
15 this matter.

16 As the Court is aware, Mr. Murphy, in his opening
17 statement, made some comments about Jason Costello which
18 suggested that Mr. Costello, or Agent Costello, wrongfully
19 targeted Mr. Murphy in terms of this investigation.

20 The government has a concern, candidly, about that
21 depending on the nature of the cross-examination. I guess I
22 just want to put Mr. Murphy on notice and the Court on notice
23 that Agent Costello was well aware of Mr. Murphy's past. He's
24 well aware of Mr. Murphy's involvement in the Costco burglary
25 in Pennsylvania, 2004, to which Mr. Murphy entered a guilty

1 plea. He's aware of the Amerisource burglary, where more than
2 a million dollars worth of pharmaceuticals were taken, in which
3 Mr. Murphy was implicated. And he is well aware of the E. A.
4 Dion burglary for which Mr. Murphy is now under indictment in
5 the State of Massachusetts.

6 As Mr. Murphy has brought out in a preliminary
7 hearing with respect to the admissibility of the manifesto, if
8 you will, Mr. Murphy has participated in several proffers with
9 Agent Costello. Therefore, Mister -- Agent Costello has a
10 broad range of knowledge of Mr. Murphy's activities separate
11 and distinct from the charges for which he is litigating here.

12 So, I guess my concern is, based on the nature of the
13 questions that Mr. Murphy may ask, he may very well open the
14 door to a lot of information coming before this Court that the
15 government would not otherwise try to bring out from Agent
16 Costello.

17 THE COURT: Mr. Murphy, take heed of what was just
18 said.

19 MR. MURPHY: I did, Your Honor; but, you know, my
20 concern would be that, A, the proffer would not be inadmissible
21 unless I took the stand and testified differently or I
22 introduced a defense that was inconsistent with the proffer.
23 That's in regards to the proffer.

24 And the government just brought up issues where I was
25 not charged with crime. This Amerisource crime that he's

1 talking about, I was not charged with this crime, Your Honor.
2 The statute of limitations has run on it. It can no longer be
3 charged. And in order for allowing the government to introduce
4 evidence of that, Your Honor, it would be highly prejudicial.
5 And I don't --

6 THE COURT: Well, don't ask about it.

7 MR. MURPHY: I wasn't going to.

8 THE COURT: That's what he's advising you.

9 MR. MURPHY: Right.

10 THE COURT: Do you get that?

11 MR. MURPHY: No. I understand what he's saying, but
12 I -- what I was --

13 THE COURT: Don't open the door. Do you know what
14 that means?

15 MR. MURPHY: I know what opening the door means, Your
16 Honor.

17 THE COURT: All right.

18 Agent Costello.

19 We're doing the cross on Costello, right?

20 MR. DOMINGUEZ: Finishing the direct, Your Honor.

21 THE COURT: Oh, finishing direct. Oh, I'm sorry.
22 Okay.

23 And bring him in, and you may start as soon as he
24 gets in here.

25 Bring in the jury. Get this show on the road.

1 Why don't you be seated until the jury comes in,
2 Agent Costello. I'm going to advise you that you're still
3 under the oath.

4 THE WITNESS: Yes, Your Honor.

5 THE COURT: Okay.

6 (Whereupon, the Jury was seated in the courtroom at
7 10:00 a.m.)

8 THE COURT: Good morning.

9 JURORS: Good morning.

10 THE COURT: Agent Costello was on the stand when we
11 closed up business last week.

12 And, Mr. Costello, I advise you you're still under
13 the oath previously administered.

14 You may proceed.

15 MS. HILL: Thank you, Your Honor.

16 - - -

17 JASON COSTELLO,

18 HAVING PREVIOUSLY BEEN FIRST DULY SWORN, FURTHER TESTIFIED AS
19 FOLLOWS:

20 - - -

21 CONTINUED DIRECT EXAMINATION

22 BY MS. HILL:

23 Q. Good morning, Agent Costello.

24 A. Good morning.

25 Q. When we left off last week, we were discussing the

1 evidence that you and other agents and officers from the FBI
2 and Columbus Police have recovered from that Raymond, New
3 Hampshire, storage facility. Do you recall that testimony?

4 A. Yes.

5 Q. Now, I just want to talk specifically about one more piece
6 of evidence that you had talked about briefly last week.

7 MS. HILL: May I approach, Your Honor?

8 THE COURT: You may.

9 BY MS. HILL:

10 Q. Now, I have handed you what has been marked as
11 Government's Exhibit 1D-13. Do you recognize that?

12 A. Yes, I do.

13 Q. And what is that?

14 A. It's a TomTom GPS.

15 Q. And is that one of the items that you'd previously
16 discussed that you discovered in that Raymond storage facility?

17 A. Yes.

18 Q. Now, have you had the opportunity to review the contents
19 and information that was within that TomTom GPS device?

20 A. Yes, I have.

21 Q. Can you explain how that was done?

22 A. It was powered up, turned on, and then the various menus
23 were scrolled through for recent places visited and favorite
24 locations stored in the device.

25 Q. And was the information stored in those different places?

1 The favorites or the recent locations, was that documented in
2 any way?

3 A. Yes, it was photographed.

4 Q. And have you had the opportunity to review the photographs
5 documenting all that information?

6 A. Yes, I have.

7 Q. And I've handed you, there, what has been marked for
8 identification as Government's Exhibits 1D-13A through 1D-13L
9 inclusive. Can you look through those documents and tell me if
10 you recognize those when you're done?

11 A. Yes. 13A would be the GPS, with the serial number
12 exposed.

13 13B would be the initial screen when the GPS was started
14 up.

15 13C is a menu screen.

16 13D is another menu screen under the "Navigate To"
17 category.

18 13E is a listing of recent destinations. Of note on the
19 recent destinations shows 922 Brush Creek Road, Warrendale,
20 Pennsylvania; 1362 Essex Avenue, Columbus, Ohio; as well as
21 Walnut Street, Lynn, Massachusetts.

22 13F is an additional listing of recent destinations.

23 Likewise, 13G is a listing of recent destinations.

24 And, finally, 13H is a listing of recent destinations.

25 13I is a listing of favorites. Under "Favorites," two

1 items of interest are stored: 922 Brush Creek Road,
2 Warrendale, Pennsylvania, as well as 1362 Essex Avenue,
3 Columbus, Ohio.

4 And Walnut Street, Lynn, Massachusetts, is shown on 13J,
5 still under "Favorites."

6 And, 13K, it's a search of recent cities that were
7 searched for, or a screen, rather, showing that. And
8 Warrendale, Pennsylvania, and Tarentum, Pennsylvania, are two
9 cities listed.

10 And one additional screen shot of that on 13L, which would
11 be Warrendale, Pennsylvania; Tarentum, Pennsylvania, and
12 Pittsburgh, Pennsylvania.

13 Q. Now, do those photos fairly and accurately reflect the
14 information that you observed on that TomTom GPS device?

15 A. Yes.

16 Q. Now, Agent Costello, I just want to go over a couple of
17 these photographs that you just discussed. In Government's
18 Exhibit 1D-13E, you discussed a couple of these addresses. You
19 said the 922 Brush Creek Road, in Warrendale, Pennsylvania.

20 A. Yes.

21 Q. And you indicated that was an address of significance in
22 your investigation?

23 A. That is the address of the Lock-Up Storage facility in
24 Warrendale, Pennsylvania.

25 Q. Okay. And then you also mentioned the 1362 Essex Avenue?

1 A. Yes. That's the location of the Brink's facility here in
2 Columbus.

3 The final one I referenced was Walnut Street. Mr. Murphy
4 resides at 407 Walnut Street, in Lynn, Massachusetts.

5 Q. Okay. And then turning just briefly to Government's
6 Exhibit 1D-13I, is that where you indicated you observed those
7 two addresses again that you found to be of significance?

8 A. Yes. Both of those, the Lock-Up address, as well as the
9 Brink's address, are stored as favorites.

10 Q. Now, Agent Costello, during the course of your
11 investigation, have you discovered or investigated anything
12 about the distance between, approximately, the Lynn,
13 Massachusetts, area to Warrendale, Pennsylvania, and/or from
14 Warrendale, Pennsylvania, to Columbus, Ohio?

15 A. Yes.

16 Q. And what have you learned about that, that distance?

17 A. A round trip from -- well, I did it from Newmarket
18 Storage, in Newmarket, New Hampshire, to stopping in Lynn,
19 stopping in Warrendale, to Columbus, and then returning by that
20 same route. It was approximately 1,720 miles, based on just
21 Google maps and using the centers of those towns as reference
22 points.

23 Q. Okay. And how does that compare, if you know, to the
24 distance that was -- the mileage driven on the Budget rental
25 truck that was rented by -- I believe it was Brian Hetherman in

1 this case?

2 A. It fits in perfectly with that number. I don't know the
3 exact number off the top of my head, but I believe it was
4 somewhere in the mid 1700s, was actually the odometer was
5 showing when it was returned.

6 Q. And have you had a chance to compare the mileage that you
7 have determined to the distance that was driven by the Thrifty
8 rental car that was rented by Sean Murphy in this case?

9 A. Yes.

10 Q. And how does that compare?

11 A. Again, without the invoice, I don't recall the exact
12 mileage on the rental car, but I know that a trip from Lynn,
13 Massachusetts, all the way through to Columbus by way of
14 Warrendale and back again would fit with inside the listed
15 mileage on the odometer upon its return.

16 Q. All right. Moving on, during the course of your
17 investigation, did you come into possession of a book entitled,
18 or a booklet, pamphlet thing, entitled "Master Thief, How to Be
19 a Professional Burglar," written by Sean Murphy?

20 A. Yes, I did.

21 MR. MURPHY: Objection, Your Honor. How can the
22 government take my course and then turn around and try to use
23 it against me, Your Honor?

24 THE COURT: Objection overruled.

25 BY MS. HILL:

1 Q. Have you had an opportunity to review that document?

2 A. Yes, I have.

3 Q. Can you explain to the ladies and gentlemen of the jury
4 generally what is that, is contained in that document?

5 A. Yes. It's essentially a how-to guide to plan for, equip
6 yourself for, and carry out high-end commercial burglary;
7 discusses tools required, how to use those tools, where they
8 would fit into a burglary, things of that nature.

9 Q. And is there any sort of set-up to the book, or is it all
10 just one big, long document, or are there sections or anything?
11 How is it broken down, if you recall?

12 A. It seems very fairly well thought out. It's divided into
13 chapters that progress in a logical order.

14 Q. And did you find any particular portions of the document
15 to be significant in regards to this investigation?

16 A. Yes, I did.

17 MS. HILL: May I approach, Your Honor?

18 THE COURT: You may.

19 BY MS. HILL:

20 Q. Handing you what's been marked Government's Exhibit 15-1,
21 now, do you recognize that document?

22 A. Yes, I do.

23 Q. And what is that document?

24 A. "Master Thief, How to be a Professional Burglar," by Sean
25 Murphy.

1 Q. Now, during your prior review of that document, did you
2 mark, or flag, the portions of it that you found to be
3 significant in regards to your investigation in this case?

4 A. Yes.

5 Q. Okay. And, turning briefly, you indicated there were --
6 it's broken out into sections or chapters. Can you indicate
7 and let us know what those chapters are?

8 A. It's broken into ten chapters: Research, Scope, Tools and
9 Equipment, Set Up, Entry, Safe and Vaults, Smash and Grab,
10 ATMs, Flukes and Storage.

11 Q. Then, turning to that first chapter, is there a section in
12 that chapter that you flagged during your review that you found
13 to be significant?

14 A. Yes. Under the "Research" chapter, there is a line in
15 reference to how to select a potential target to be
16 burglarized. There is a quote: Most of the online telephone
17 directories like Superpages and Yellow Book, have a map feature
18 available for very businesses -- very business listing and its
19 database.

20 I am assuming that's a misspelling by the circle.

21 The map feature will allow you to choose a bird's-eye
22 view, which is a picture taken from a satellite in space. You
23 can zoom in to see the building itself and all the surrounding
24 areas. This will allow you to assess if the score is even
25 worth looking at in person. As will be discussed in the next

1 chapter, location is the most important fact when picking a
2 target.

3 Q. And why, Agent Costello, did you find that portion of this
4 document to be significant in regards to this investigation?

5 A. Well, during my debrief of Mr. Doucette on June 4th, he
6 mentioned that Mr. Murphy had shown him photos of the Brink's
7 location to be burglarized on the Internet and indicated that
8 that's how he researched this particular facility, was over the
9 Internet, using some features like Google Earth and the like.

10 Q. All right. And then turning to the second chapter, the
11 chapter you'd indicated was entitled "Scope," --

12 A. Yes.

13 Q. -- was there any section of that chapter that you had
14 flagged as being particularly relevant to your investigation in
15 this case?

16 THE COURT: What chapter is this, now?

17 MS. HILL: Chapter 2, entitled "Scope."

18 THE WITNESS: Yes. The third paragraph of note: One
19 of the first things to assess is location. Is this a good spot
20 to do a score? Generally, industrial parks and remote set-ups
21 are best. The less people have a chance at seeing you, the
22 better your chances are for running into a fluke. Also, you
23 may be making a lot of noise or moving around on a roof. Good
24 locations put the advantage on your side.

25 BY MS. HILL:

1 Q. And what was it about that section that you found to be
2 particularly significant?

3 A. Well, the Brink's facility is situated in an industrial
4 type area. It's not what I would consider in a traditional
5 industrial park, but it is very industrial in nature, meaning
6 there are very few residential units around. Likewise -- and,
7 again, from Mr. Doucette's proffer, he had said that, you know,
8 they were making a lot of noise on the roof attempting to gain
9 access. So both of those notes would fit here within this
10 paragraph.

11 Q. Turning then to Chapter 3, "Tools and Equipment," were
12 there any sections of this chapter that you found to be
13 significant?

14 A. Yes. Well, I found the whole section to be significant,
15 but there are a couple of items of particular note that I
16 thought were interesting and relevant to the current case at
17 hand. The first one would be on the first page of that section
18 under -- and it's subtitled "Cell Phone Jammer."

19 "A cell phone jammer will jam the signal and alarm
20 system's backup wireless transmitter. The best jammers are,
21 quote, worldwide jammers that cover all the cellular
22 frequencies all over the world. The frequency bands are 800
23 megahertz, 900 megahertz, 1800 megahertz, 1900 megahertz, 3G
24 megahertz, and now the 4G megahertz network. The higher the
25 power, wattage, in parentheses, the more effective your jammer

1 will be. Ten watts per channel.

2 My copy is a little light.

3 An excellent jammer will be 100 watts per channel. Most
4 jammers can be powered by AC or DC. The higher powered jammers
5 use 220 volt AC, but also use 24 volt DC. Considering that no
6 roof will have 220 volt AC accessible, it is easier to put two
7 12 volt car batteries in series. Connect the positive terminal
8 of one battery to the negative terminal of the second battery
9 with a wire, which will give you 24 volts DC on the open two
10 terminals remaining on the two car batteries.

11 Q. Now, why did you find this section on cell phone jammers
12 to be significant in this investigation?

13 A. Well, I am aware that the Brink's facility, being a
14 somewhat secure facility, does have a robust alarm system, and
15 it does have a cellular backup to its main method of
16 communication over traditional phone lines.

17 Second is the reference to batteries. We found car
18 batteries in our search of Raymond, New Hampshire. In addition
19 to cell phone jammers, we found several car batteries, which
20 would seem to coincide with the use spelled out here.

21 Q. So am I correct in understanding that a cell phone jammer
22 used in the area of Brink's would, in fact, have an impact on
23 the Brink's security system?

24 A. Right. A cell phone jammer, for the lay person's
25 description of it, essentially, it's a device that, when

1 properly employed and powered up, depending on its power, it
2 will disrupt cellular communications in a given -- a given
3 area.

4 And that area is going to be, I'm sure, a product of the
5 types of antennas that the person's using, the power that's
6 being pumped through them, and just simply the geography and,
7 you know, buildings or other things in the area. If that is
8 effective, then cellular traffic in that area will be unable to
9 communicate to cellular networks back and forth. It will just
10 be temporarily disrupted. It doesn't have a lasting effect.
11 It's only when the unit is in place and operating that cell
12 phones can't work.

13 So, in the case of a building alarm system where building
14 alarms prefer to communicate over telephone lines, when those
15 telephone lines are cut, the alarm still has a means to
16 communicate to the alarm service provider by way of cellular.
17 If that cellular signal cannot get out -- i.e., a cell jammer
18 is up and running and is effective -- then the alarm service
19 provider would have no idea that the alarm system is
20 experiencing some type of fault or fault sequence.

21 Q. Thank you. Now, is there anything else of significance in
22 this book about cell phone jammers that you flagged?

23 A. Yes. On the second page of that --

24 MR. MURPHY: Objection, Your Honor. The witness is
25 not an expert, Your Honor.

1 THE COURT: You may provide some foundation for this.

2 MS. HILL: Yes, Your Honor. Thank you.

3 BY MS. HILL:

4 Q. Now, Agent, --

5 THE COURT: I'll take it under advisement.

6 BY MS. HILL:

7 Q. Agent Costello, you've testified about, quite a bit about,
8 your -- about how cell phone jammers work. Have you seen
9 and/or used or investigated the use of cell phone jammers in
10 your work as an FBI agent?

11 A. Yes.

12 Q. And can you explain a little bit about that to the Court,
13 as to what the nature of your understanding is, how you've come
14 to have that knowledge?

15 A. Sure. Well, my knowledge is derived from two sources.
16 One is just open source material on the Internet. You can look
17 it up.

18 The company Global Gadget, where the particular cell phone
19 jammers that we believe we have here in the courtroom were
20 purchased, has information on their websites on what a cell
21 jammer does. Mr. Menage's statement, from Global Gadget, gave
22 a very good primer on cell phone jammers.

23 In addition, through briefings I've had with FBI bomb
24 technicians and whatnot, cell phone jammers are used by the
25 military -- and our bomb technicians do work in conjunction

1 with the military -- to try to disrupt IEDs over in Iraq and
2 Afghanistan since most of them are triggered by cell phones.
3 So a lot of the convoys will drive with cell phone jammers
4 operating to prevent those IEDs from going off.

5 So that's pretty much where my knowledge comes from.
6 Again, I'm not an expert on how it works, but the lay person's
7 version, which is what I just gave, I'm quite comfortable with.

8 THE COURT: How long have you been an agent?

9 THE WITNESS: Since July 2004, Your Honor.

10 BY MS. HILL:

11 Q. And the use of cell phone jammers, has that been an
12 ongoing part of investigations you've been conducting during
13 your time as an FBI agent?

14 A. Yes. Since I started working on these types of
15 investigations back in the summer of 2008 is when I started
16 seeing this type of thing and looking into it for my own
17 purposes and learning about it.

18 THE COURT: Objection's overruled.

19 MS. HILL: Thank you, Your Honor.

20 THE COURT: The witness is qualified to testify on
21 these matters.

22 BY MS. HILL:

23 Q. Going back, Agent Costello, was there anything, further,
24 about cell phone jammers, in this book, that you found to be
25 significant?

1 A. Yes. There is a paragraph on the second page of that
2 section continuing the discussion on jammers where it says:
3 Several different countries sell jammers, but they are
4 technically illegal in the United States. U.S. Customs will
5 seize jammers if detected. A company named Global Gadget, in
6 England will work with you on all the current procedures on how
7 to import jammers into the United States. If all else fails,
8 you can drive up to Canada or down to Mexico and have it
9 shipped to you at a hotel or motel in that country, then drive
10 it back across the border in your trunk. Bring a cheap \$100
11 electric guitar and say the jammer is a preamp for the guitar.

12 Q. And why did you find that specific section to be
13 particularly relevant in this investigation?

14 A. Well, I first heard that jammers were getting intercepted
15 and Mr. Murphy was having difficulty obtaining a replacement
16 one through David Nassor.

17 When I followed up with Global Gadget and read the e-mails
18 that they provided, that topic was discussed.

19 In particular, the Newark port of entry was -- their
20 customs unit there was actively looking for these types of --
21 pieces of equipment and intercepting them. Therefore, that
22 necessitated a shipping route that would go through Memphis,
23 instead, where they weren't quite as observant to these types
24 of things.

25 One other thing of note, in the reference to bring a cheap

1 guitar and call the -- any inspecting official, tell them the
2 jammer was a preamp for the guitar, that's also a topic that
3 Mr. Murphy had brought up in those emails with Global Gadget.
4 In fact, at one point, I think he told Mr. Menage that he
5 thought of shipping him some stickers to put on the equipment
6 that would label the device just that: a guitar preamplifier,
7 amplifier, or whatnot.

8 Q. And that was an e-mail that you observed in that Global
9 documents -- Global Gadget's document that was entered as
10 Government's Exhibit 4-1?

11 A. Yes.

12 Q. Now, you indicated that you found the tools and equipment
13 section to be, all of it, particularly relevant. Was there any
14 other sections in that chapter that you actually flagged as
15 particularly significant?

16 A. Yes.

17 Q. Can you describe that?

18 A. There is a section where it addresses what to use for
19 communications devices, how they relate to the jammers. It
20 says: Try to get two-way radios with the 460 megahertz to 565
21 megahertz frequency range. Check the frequencies before you
22 buy them. The jammer only jams the higher frequency range from
23 800 megahertz or higher."

24 Q. And why was that significant?

25 A. Well, that's how, you know, if one were to use

1 walkie-talkies, that would be the rationale, because cell
2 phones could be -- the same cell phones that the jammer would
3 be trying to suppress on the cellular backup alarm would have
4 the same effect of any part of, you know, the burglary crew
5 trying to use the cell phone to communicate. So, therefore,
6 that would necessitate some other device: a walkie-talkie.
7 This explains why the walkie-talkie would not be affected by
8 the cell jammer, because it operates on an entirely different
9 frequency band.

10 Q. Now, looking at this page here where that flagged section
11 was, was there another section that you flagged or highlighted
12 as being particularly relevant?

13 A. Yes, the clothing section. Being properly clothed for a
14 score is essential. Go to any Army-Navy store and purchase
15 black jumpsuits, also called flight suits. Don't forget to buy
16 black ninja masks there. Check your local shoe store for black
17 rubber sole -- it's a misspelling -- shoe, galoshes. These
18 will change your footprint, and they can be removed and
19 discarded easily. It is good -- it is good to wear bright
20 colors under your black jumpsuit. If you get chased, then you
21 can discard your outer clothing and be a totally different
22 person when no can -- who no one can identify as being at the
23 score.

24 Q. And why did you find that section to be significant?

25 A. We had heard the black suit thing before; but,

1 specifically, Mr. Doucette, in his proffer, had said that they
2 wore dark-colored clothing. And he'd indicated to us that, you
3 know, he was told to wear bright clothing underneath for that
4 very purpose: If you're being chased, you could strip down and
5 ultimately be wearing totally different colors.

6 Q. Now, again, you indicated that you found this entire
7 chapter to be particularly significant. Was -- can you
8 describe, generally, what the rest of that section contained
9 that you found to be significant without reading the entire
10 chapter to the ladies and gentlemen of the jury?

11 A. Sure. There are other very specific-use tools that were
12 described which we found in our search of the Raymond storage
13 locker on June 4th: a very large, very specific hydraulic
14 generator that would turn a special drill; to use a term, it's
15 called a Core Bore. We had heard that from David Nassor, that
16 particular device, described; and it's used to cut very large
17 holes through, presumably, concrete, asphalt, and the like. So
18 we found that in the unit. Something called magnesium thermal
19 rods, which are very long rods that are used in the cutting
20 process to go through plate steel; and various other -- again,
21 not your -- not typical tools that most people would have in
22 their home workshop were discussed. And they were -- appeared
23 to have either matched Mr. Nassor and Mr. Doucette's
24 descriptions or just what I've learned from the crime scene.

25 Q. Let's skip ahead a couple of chapters to Chapter 6,

1 entitled "Safes and Vaults."

2 A. Yep. There is section on the magnesium thermal rods in
3 particular. It says: The magnesium thermal rods will burn
4 through any metal or steel and will also burn through
5 reinforced concrete. To set up an operation of thermal rods is
6 discussed in Chapter 3, Tools and Equipment. Once lit, you
7 want to cut a three-foot-by-five-foot hole in the vault door or
8 wall. We will call this an easy access window.

9 Because vault doors are so big, they usually are not made
10 of solid steel. A lot of vault doors will have a light-weight
11 substance in the middle of the vault door itself. There will
12 be a steel layer; then a layer of either wood, ceramic or fire
13 chalk; and then another layer of steel.

14 Burning off the outer plate of steel should be fairly
15 easy. Just put the lit rod to the steel and push it through.
16 Then start sawing away until your square is cut. The wood, if
17 it is wood, can be drilled for a pilot hole; then Sawzalled out
18 with a little prying from a crowbar. Use a spade drill to
19 drill your pilot hole.

20 Ceramic cannot be drilled or melted. A sledge hammer,
21 heavy duty chisel, and Killer crowbar will remove the ceramic
22 if your vault door has ceramic as an inner substance. Fire
23 chalk can be smashed out with a sledge or Killer.

24 Be extremely careful when piercing the last layer of steel
25 on the vault door. If your thermal road catches something on

1 fire in the vault, everything could burn up; and the smoke
2 could prevent you from even entering the vault.

3 Q. Can you explain why you found that section to be
4 significant?

5 A. Well, the concept of a multi-layer vault door I know is --
6 I don't know the exact layering of the Brink's vault door, but
7 I know that it was comprised of different things inside it.
8 But of particular note would be the very last section that I
9 read in reference to being careful about pushing your thermal
10 rod through the last layer of steel and inadvertently catching
11 something on fire.

12 From my knowledge of the crime scene, and also in
13 conversations with Mr. Doucette, it was apparent that some
14 money was set on fire, and that hampered efforts, because, the
15 vault, it's filled with smoke.

16 Q. Finally, Agent Costello, turning to the final chapter,
17 Chapter 10, was there a -- that is entitled "Storage" -- is
18 there a section in there that you flagged as significant?

19 A. Yes. It's the very first portion of it.

20 Any good thief knows that he needs a place to store his
21 tools and equipment, as well as his booty, after a score. The
22 first place cops look and search is the suspect's home.
23 Therefore, keeping anything at your residence is a no no.
24 After you become a prime suspect in a score and probable cause
25 has arisen, the cops almost always obtain a search warrant to

1 search your home. That being the case, you need a good storage
2 facility. Never get a storage facility near where you live.
3 Always go at least four to fifty miles away.

4 I am assuming that may be a 40 to 50 miles away. I'm not
5 sure.

6 If you can cross state lines, that is even better. A
7 smart detective may check and/or canvas the local self storage
8 facilities near your residence to investigate whether you rent
9 there or not. In some rural communities, the people working at
10 self-storage facilities may not even ask you for an ID. Always
11 open a storage bin in another name. Never use your own name
12 even if you bring a friend with an ID to open it for you.

13 Q. And can you explain why you found that section to be
14 particularly significant in this investigation?

15 A. Sure. We knew that Mr. Murphy had utilized both storage
16 facilities in Newmarket, New Hampshire, and then down in
17 Warrendale, Pennsylvania. The Newmarket location was probably
18 about 50 miles, based on my Google research. From Lynn, Mass,
19 to Newmarket, Mass, is approximately 50 miles. And it is in an
20 adjacent state. So it matches his description of going a
21 little ways away and trying to cross state lines if you can.

22 The ID issue, through my investigation at Newmarket, I
23 became aware that Mr. Murphy was renting units in various
24 persons' names, not his own, but also renting trucks under the
25 name of Brian Hetherman. The people there knew that all those

1 things to be linked under Hetherman.

2 And, in Warrendale, at the Lock-Up storage unit, I'm also
3 aware that the unit was rented under the alias of Brian
4 Hetherman.

5 MS. HILL: Thank you, Agent Costello.

6 Your Honor, I have no further questions.

7 THE COURT: Pardon me?

8 MS. HILL: I have no further questions, Your Honor.

9 THE COURT: You may examine, Mr. Murphy.

10 MR. MURPHY: Thank you, Your Honor.

11 - - -

12 CROSS-EXAMINATION

13 BY MR. MURPHY:

14 Q. Good afternoon, Special Agent Costello.

15 A. Good morning.

16 Q. May I ask you a few questions, Special Agent Costello,
17 about your investigation into this matter?

18 Are you aware of any information that would lead you to
19 believe that David Nassor or Robert Doucette gave false
20 information to law enforcement in this case?

21 A. No.

22 Q. Are you aware of any information that would lead you to
23 believe that David Nassor or Robert Doucette withheld evidence
24 in this case?

25 A. No.

1 Q. Are you aware of any information that would lead you to
2 believe that David Nassor or Robert Doucette destroyed evidence
3 in this case?

4 A. No.

5 Q. Are you aware of any information that would lead you to
6 believe that David Nassor or Robert Doucette misled law
7 enforcement in this case?

8 A. No.

9 MR. MURPHY: Just one minute, Your Honor.

10 (Whereupon, there was a brief interruption.)

11 BY MR. MURPHY:

12 Q. Special Agent Costello, with respect to this case, were
13 you investigating Mr. Murphy in December 2008 and 2009?

14 A. With respect to Brink's, no, because it had not occurred
15 yet.

16 Q. Okay. Special Agent Costello, do you know what a junkie
17 is?

18 A. I know what the term means, yes.

19 Q. Can you explain to the jury what your definition of a
20 junkie is?

21 A. Well, generally speaking, that's slang for a drug addict.

22 Q. And, throughout your career, have you formed an opinion as
23 to whether junkies are honest people or dishonest people?

24 A. I've formed opinions.

25 Q. And what have you determined?

1 A. That one label does not fit every particular person. Some
2 people are drug users, but they're honest on certain things;
3 maybe not honest on their drug use. Other people are chronic
4 liars. I mean, you can't -- you can't say that one person is
5 one thing.

6 Q. For the most part -- for the most part, even though I
7 understand your explanation, do junkies tend to lie, or tell
8 the truth, for the most part?

9 A. I can't break it down. I can tell you that a lot of those
10 that I come in contact with subsequent to arrest are maybe
11 inclined to give us misleading statements to avoid being
12 arrested; but, you know, I can't say a blanket statement that
13 junkies lie or tell the truth a certain percentage of the time.
14 I wouldn't have any foundation.

15 Q. Do you know if David Nassor was a junkie?

16 A. I know he had a history of some drug use.

17 Q. And, Rob Doucette, did you know that he had a history of
18 drug use?

19 A. Yes.

20 Q. And do junkies possess certain skills that they acquire to
21 get to use their drugs?

22 A. Can you be more specific?

23 Q. Do junkies possess certain skills to acquire the drugs
24 they need?

25 A. Well, if you need something, yeah, you go learn how to buy

1 it.

2 Q. Or get it or acquire it?

3 A. Sure.

4 Q. And do junkies steal money to support their habit?

5 A. Yes, some do.

6 Q. Okay. And do junkies tend to manipulate people to get
7 what they want?

8 A. That would probably fit with some of the behaviors; but,
9 again, I can't make that as a group statement. I think a lot
10 of people manipulate to get what they want, even if they're not
11 a junkie.

12 Q. Do you think Rob Doucette and David Nassor were
13 manipulating you to avoid doing time for this crime?

14 A. Absolutely not.

15 Q. Do you think Rob Doucette and David Nassor lied to you to
16 get what they want?

17 A. Nope.

18 Q. Were you aware that Rob Doucette did drugs on his weekend
19 out at Ohio on January of 2009?

20 A. I was not aware of that.

21 Q. You're not aware of that. So, if he didn't tell you about
22 that, obviously, he withheld that information from you?

23 A. Or I didn't ask.

24 Q. And were you aware that Rob Doucette also did drugs when
25 he went back out west to pick up this stuff when he was with

1 Joe Morgan?

2 A. The topic didn't come up.

3 MR. MURPHY: Just one minute.

4 (Whereupon, there was a brief interruption.)

5 BY MR. MURPHY:

6 Q. Special Agent Costello, with respect to this case, was I
7 the target of your investigation?

8 A. You became the prime suspect of this investigation, yes.

9 Q. Special Agent Costello, isn't it true that the only
10 witness that you have that attempts to place Murphy at the
11 scene of the Brink's burglary is Rob Doucette?

12 A. Yes. Rob Doucette put you at the crime.

13 Q. Besides Rob Doucette, you have no other evidence that
14 places Mr. Murphy at the scene of the crime?

15 A. We have plenty of evidence that shows going up, coming
16 back, but you're right. In the building itself, Mr. Doucette
17 is our testifying witness who says that you were there in the
18 building.

19 Q. Now, do you have any evidence that places Murphy in the
20 State of Ohio besides Rob Doucette?

21 A. Same answer to that question.

22 Q. And with respect to the weekend of January 17th and
23 January 18th, do you have any evidence that places Murphy in
24 the State of Pennsylvania on that weekend besides Rob Doucette?

25 A. I'm not aware of anything besides Rob Doucette.

1 Q. Now, let's move along to the day that Joseph Morgan got
2 arrested. Do you remember that day?

3 A. Yes.

4 Q. And what day was that, Special Agent Costello?

5 A. If my memory serves me correct, April 8th.

6 Q. April 8th?

7 A. Of 2009.

8 Q. And did you do something on that day after Joseph Morgan
9 was arrested?

10 A. Uh-huh.

11 Q. What did you do?

12 A. I went and spoke with Rob Doucette.

13 Q. So that was your first contact with Rob Doucette on April
14 8th?

15 A. Yes.

16 Q. And what did you tell Rob Doucette?

17 A. I told him that I was looking at you, Joe Morgan, and he
18 for the Brink's Columbus job, and that if he wanted to have a
19 talk about it, we wanted to talk to him.

20 Q. So you mentioned three specific names to Rob Doucette on
21 that day?

22 A. Yes.

23 Q. And did you tell Rob Doucette where you got your
24 information?

25 A. Nope.

1 Q. You didn't mention any names?

2 A. Nope.

3 Q. So, if Rob Doucette testified that you told him that Joe
4 Morgan gave you the information, that would be incorrect?

5 A. I did not give him any information as to how I came to my
6 information.

7 Q. Okay. So, to answer the question, if Rob Doucette
8 testified that you told him that Joe Morgan gave you the
9 information, that would be incorrect information from Rob
10 Doucette?

11 A. Well, if he testified to it, then he was somewhat mistaken
12 on where the information come from. He may have assumed, if he
13 did testify to it -- but I don't know what he testified to or
14 what he didn't. If he did, he may have assumed -- since I went
15 from Joe Morgan's arrest, then over, some time later, to talk
16 to Mr. Doucette, he may have assumed that Mr. Morgan had given
17 us some information, but he would be incorrect in assuming
18 that.

19 Q. Yes. Well, if he testified that that's what was told to
20 him, not what his opinion was, what was told to him --

21 A. Well, you would have that in error if he thought that.

22 Q. Okay. So that would be a misstatement?

23 A. Sure.

24 Q. Okay. Now, when you spoke to Mr. Doucette, did he admit
25 to doing this crime on April 8th?

1 A. He told me he had nothing to say at that time.

2 Q. He didn't deny it?

3 A. He said he had nothing to say at that time.

4 Q. And did you ask any other questions of Mr. Doucette on
5 that date?

6 A. We told him that we'd like to talk to him, and I gave him
7 a business card.

8 Q. Did you ask Mr. Doucette why Murphy had written him any
9 checks?

10 A. I don't believe so. I may have, but I don't -- I don't
11 recall.

12 Q. Did you ever ask Mr. Doucette why Murphy wrote him any
13 checks --

14 A. I may have. I may have asked him in the proffer. I don't
15 know. I don't recall.

16 Q. And do you remember what his response was?

17 A. If the topic came up -- and I don't know if it was in
18 relation to checks or just in general -- I know that you and he
19 had old cars in common, or something to that effect.

20 Q. Did Mr. Doucette ever tell you that those checks were from
21 work that he did for Murphy?

22 A. Again, I don't recall, specifically, if that topic went
23 down the line of checks or simply how he knew you, which was, I
24 think, through the old cars, originally.

25 Q. Now, in respect to Mr. Nassor, he told you he went to

1 Memphis, Tennessee?

2 A. Yes.

3 Q. And did he tell you why he went to Memphis, Tennessee?

4 A. Yep, to -- he had lost one of your cell phone jammers, and
5 he went there to -- kind of as penance -- to pick one up on
6 your behalf to bring it back for you.

7 Q. Did Nassor say that he opened the package that he received
8 in Tennessee?

9 A. I don't know if he said that or not.

10 Q. Now, did Nassor tell you that the cell phone jammer he
11 received in Tennessee was the cell phone jammer used at
12 Brink's?

13 A. At that time, he just said he received a cell phone jammer
14 for you.

15 Q. Now, did you review Murphy's bank records?

16 A. Yes.

17 Q. And did you notice that there were two separate FedEx
18 shipments in early 2008 that went through Memphis?

19 A. From your bank records, it doesn't -- well, all FedEx --
20 you can't tell where the shipment goes through. But if you
21 look at your bank records, anytime you ship, you make a
22 purchase at FedEx -- if you go into the local Kinko's FedEx to
23 mail an envelope in Lynn, Massachusetts, and to mail it to
24 California -- the charge is going to show Federal Express,
25 Memphis, Tennessee. That's where their corporate headquarters

1 is. So that's where it all gets charged.

2 Q. And you know this how?

3 A. Through reviewing a lot of bank records in my performance
4 of my duties as an agent, and also through inquiring with FedEx
5 liaison that we have just to make sure that that was, in fact,
6 the case: that the charge would show in Memphis. And they
7 confirmed, that, yes, that was where things are charged
8 through.

9 Q. Okay. And in regards to cell phone jammers, which cell
10 phone jammer was used during the Brink's burglary?

11 A. I don't know which one was used. I wasn't there. But we
12 recovered two in Raymond's storage. And Mr. Doucette said a
13 cell phone jammer was employed. I'm not sure if he picked the
14 big one or the little one, but we did recover two that seemed
15 to correspond to the Global Gadget's emails.

16 Q. So it's your testimony that Mr. Doucette didn't tell you
17 which cell phone jammer he used during Brink's?

18 A. He did not have a detailed knowledge of cell jammers. So
19 whatever you told him is what he told me. But he said he -- he
20 used -- called it a jammer. That's it.

21 Q. So your testimony is that he didn't have a detailed
22 knowledge of cell phone jammers?

23 A. He knew, generally, what it was. But he could not give me
24 a very good explanation of what the model number was, what the
25 power was, exactly why it worked. He just knew that it was

1 supposed to work.

2 Q. Huh. Well, if I told you he explained to the jury in
3 detail what cell phone jammers did, how they worked, how they
4 were set up and how everything, would that be inconsistent with
5 what he told you?

6 A. Well, I'm telling you what he told me.

7 Q. Okay. We'll get to that in a little while, too.

8 A. Uh-huh.

9 Q. Now, Special Agent Costello, you said you've reviewed the
10 emails from Global Gadget?

11 A. Yes.

12 Q. According to those emails, don't they establish that
13 Murphy's company provided cellular jammers to its customers?

14 A. There is a reference that you have a company that provides
15 jammers, but I don't think it establishes it.

16 Q. Well, it's on more than one email, you would suggest, that
17 it refers to Murphy and customers buying jammers?

18 A. Why don't you show me the e-mail? And we can talk about
19 the specific one, and I'll give you my impression of it.

20 Q. I have the emails, but I just can't seem to locate the
21 exact ones that I'm looking for. Just give me a second,
22 please.

23 Here we go. I have them.

24 Right there, Special Agent Costello.

25 A. Uh-huh. Okay.

1 Q. I have people here that want to purchase your products. I
2 have one customer who wants two Y2000 Quads; then the one
3 customer who wanted an XK-1000, 5 band.

4 Would that indicate that Murphy provides jammers to his
5 customers?

6 A. Well, Northshore is a moving company. So I -- I'm not
7 familiar with moving companies that sell cell phone jammers.

8 If you're asking for my impression of this, it would be to
9 sell them, possibly, through other -- to other associates, who
10 may use them for their other-than-intended purpose, but I don't
11 know how that demonstrates a legitimate resale market,
12 especially when your moniker of "Northshore" is for Northshore
13 Movers of Lynn.

14 Q. Does it say "Northshore Movers of Lynn"?

15 A. It says "Northshore."

16 Q. Okay. It just said "Northshore"?

17 A. Yeah, because I'm guessing you dropped "the Movers of
18 Lynn" because the cell phone -- this guy selling cell phone
19 jammers would probably be a little suspect knowing that those
20 things are not for the civilian market.

21 Q. This guy -- you're saying he would think it would be
22 suspect?

23 A. You're asking for my impression. Yeah.

24 Q. Well, you've read all these emails, right?

25 A. Uh-huh.

1 Q. And wasn't there conversations between the manager of
2 Global Gadget and Mr. Murphy regarding getting these products
3 into the United States?

4 A. Yeah.

5 Q. And weren't they devising ways of how that could happen in
6 avoidance of Customs?

7 A. Yep.

8 Q. So why would this person even care who he was selling them
9 to if he was just trying to get them in any way he could?

10 A. Well, maybe he has some standards.

11 Q. Yeah. And this document right here (indicating), this is
12 another one that indicates I have a customer?

13 A. So you say.

14 Q. Okay. Now, getting back to Mr. Nassor and his purchasing
15 of this jammer, are you aware of an email that Mr. Nassor sent
16 to Global Gadget in this case?

17 A. I'm not familiar with one.

18 Q. You've reviewed discovery in this case, haven't you?

19 A. I have. He may have sent one, but I'm not familiar with
20 it.

21 Q. Okay.

22 A. If you can show to it me, it may jog my memory.

23 Q. If I could show it to you, it would refresh your memory?

24 A. Sure.

25 (REPORTER'S NOTE: Witness shown document.)

1 BY MR. MURPHY:

2 Q. Does that refresh your memory, Special Agent Costello?

3 A. I have seen this. This actually came off of the searches
4 from some of the computers that were seized in another
5 investigation.

6 Q. Okay. And what does Mr. Nassor say to Global Gadget?

7 Oh! By the way, this email is after the Brink's burglary?

8 A. Uh-huh.

9 Q. And what does Mr. Nassor tell Global Gadget?

10 A. I purchued a jammer in December 2008 in Tenn.

11 Presumably Tennessee.

12 Could I receive the same one.

13 Q. He says he purchased one, correct?

14 A. Uh-huh.

15 Q. Okay. And that's not saying that he went and picked them
16 up; he's saying he purchased it?

17 A. That's what he says.

18 Q. Okay. And that would imply that he was the owner of the
19 device, correct?

20 A. By that email, sure.

21 Q. Okay. And do you know what the response to that e-mail
22 was? Did you ever investigate that?

23 A. No.

24 Q. If I told you that Global Gadget told him to go through
25 Northshore to get his device, would you disagree with that?

1 A. I'd have no basis to say yea or nay.

2 Q. Okay. And would you agree that other people in the
3 Greater Lynn area had cell phone jammers?

4 A. I've heard of one that was stolen from you.

5 Q. Only one?

6 A. I've only heard that one.

7 Q. Did you ever hear that a guy named Johnny Rotten had a
8 cell phone jammer?

9 A. That would be two. You're right, yeah. A long time ago,
10 I heard that.

11 Q. Okay.

12 A. But I heard that from you.

13 Q. Yeah.

14 Just one minute.

15 Special Agent Costello, in regards to Brink's and the
16 Brink's building, have you reviewed all the pictures that were
17 taken?

18 A. Not all of them; some of them.

19 Q. Did you -- specifically, did you review the pictures of
20 any holes that may have been cut in the roof?

21 A. Yes.

22 Q. And how many holes did you determine were cut in the roof?

23 A. I think there are somewhere in the ballpark of five, but I
24 don't -- I don't particularly know.

25 Q. And did you examine the pictures of the holes?

1 A. I saw some of the pictures, yes.

2 Q. And based on your experience as an investigator who has
3 been investigating burglaries on that task force for a long
4 time, did you form an opinion as to what type of device cut
5 those holes in the roof?

6 A. Well, I wasn't at the crime scene. That was the work of
7 the local folks here in Columbus. So I really can't say. I
8 mean, looking at photos, I don't know if I could give it a good
9 assessment.

10 Q. Okay. Well, based on -- based on your observations of the
11 photos.

12 A. I would think some combination of either a metal grinder,
13 a Sawzall, some other things, you know, some other cutting
14 tools like that, I would think.

15 Q. Okay. Thank you. I mean, that's a legitimate answer.

16 Now, have you reviewed the list of tools that was
17 recovered from the Raymond, New Hampshire, storage bin?

18 A. Yes.

19 Q. Did you find a Sawzall or a grinder in those tools capable
20 of cutting the hole that we were just describing?

21 A. I don't recall if we found one in those tools. I would
22 have to look at the evidence. We found a lot of things, a lot
23 of small hand tools that were in bags. So, off the top of my
24 head, I don't have it committed to memory.

25 Q. Did you find a plug-in Sawzall in the tools?

1 A. I don't know. I'd have to look at the listing.

2 MR. MURPHY: Do you have a list of the tools?

3 (Whereupon, Ms. Hill hands a document to Mr. Murphy
4 and Mr. Graeff.)

5 MR. GRAEFF: May I approach?

6 THE COURT: Yes.

7 (Whereupon, Mr. Graeff hands a document to the
8 witness.)

9 BY MR. MURPHY:

10 Q. Would you please review that list, Special Agent Costello?

11 A. Sure.

12 (Witness complies.)

13 Okay.

14 Q. Have you reviewed that document, Special Agent Costello?

15 A. Yes.

16 Q. Is that an accurate description of all the items that were
17 seized from the Raymond, New Hampshire, storage bin?

18 A. Appears to be.

19 Q. And do you see a grinder on that list, Special Agent
20 Costello?

21 A. No, no grinder.

22 Q. Do you see a plug-in Sawzall on that list?

23 A. I see saw blades, but no plug-in Sawzall.

24 Q. Okay. Thank you very much.

25 And if a plug-in Sawzall was used, wouldn't the

1 perpetrators have had to have extension cords to get to -- how
2 were these five holes situated? Were they right next to each
3 other, or were they spread out on the roof?

4 A. I think they were spread out.

5 Q. So wouldn't the perpetrators have needed extension cords,
6 logically?

7 A. If they were using a plug-in version. I mean, I know
8 there are cordless versions. I mean, I don't know what tools
9 were used up on the roof. You're asking me to speculate.

10 Q. Okay. Let's address that briefly.

11 A. Uh-huh.

12 Q. Would a cordless drill have the power and the endurance to
13 cut all those holes in the roof, Special Agent Costello?

14 A. I've never tried to cut a hole in a roof. So I don't
15 know.

16 Q. Okay. Did you find any extension cords in the Raymond,
17 New Hampshire, storage bin?

18 A. Yes.

19 Q. You did?

20 A. Uh-huh. Item 1B-31, extension cords.

21 Q. Okay. Thank you.

22 A. Sure.

23 Q. Now, Special Agent Costello, are you familiar with an
24 electromagnetic drill press?

25 A. I am.

1 Q. And --

2 THE COURT: That was a drill press, Mr. Murphy?

3 MR. MURPHY: Yes, a drill press, Your Honor.

4 BY MR. MURPHY:

5 Q. And what does an electromagnetic drill press do, Special
6 Agent Costello?

7 A. Well, from my understanding, when you plug it in, the --
8 and I may not be doing it justice, but from what I've been able
9 to learn about it, you plug it in, and it's magnetized, and it
10 will adhere itself to a metal surface. So you could go,
11 potentially, adhere it to a vertical surface, and then the
12 drill allows you to operate from there as if it were actually
13 bolted into the surface. It is a very heavy-duty, very
14 specific drill. And it can cut a hockey puck size hole out of
15 something.

16 Q. Now, Special -- Special Agent Costello, --

17 A. Uh-huh.

18 Q. -- was there any evidence at Brink's that an
19 electromagnetic drill press was used, or may have been used, or
20 attempted to be used?

21 A. From what I saw in the photos, there was some adhesive
22 dripping down the front of -- there was like a refrigerator
23 size safe in the area. And I believe that we asked Mr.
24 Doucette to clarify why that adhesive was put there. And he
25 told us that, because -- whether the skin of the safe, that the

1 electromagnetic drill was not -- you know, the magnet was not
2 functioning properly or just because of the surface, it wasn't
3 working. So there was an effort made to glue it to try to hold
4 it there; but, because of the temperature in the building, that
5 wasn't working. So -- but that would be my only indication, is
6 from what he told me.

7 Q. So Robert Doucette acknowledged that they had an
8 electromagnetic drill press?

9 A. From what he described, yeah.

10 Q. Okay. And when you went into the Raymond, New Hampshire,
11 storage bin, did you find an electromagnetic drill press?

12 A. I don't know if we found one or not, to be honest. I'd
13 have to look.

14 Q. Review your records.

15 A. We found a lot of stuff. So I believe we did. We might
16 have found something that looked like it.

17 Q. Can you look through that list and tell me what exhibit,
18 the electromagnetic drill press?

19 A. Bear with me.

20 I mean, I can say that there is the hogwash, which is
21 recovered, which is the lubricating oil that you squirt down to
22 get it to lubricate while it's cutting. So I would assume that
23 one was there by virtue of us finding that, but --

24 Q. That would indicate that there actually was one there if
25 the hogwash was there?

1 A. Well, just because we didn't find it doesn't mean it
2 wasn't there.

3 Well, there is a bag here, and it's not specific. One bag
4 containing drill, saw, which could be the saw you were talking
5 about earlier, blades, rope, bungee cord, Stratos batteries.

6 So it's not very specific. So I don't know. I'd have to
7 look at the item and see what's actually in it, because the
8 description simply says "drill."

9 Q. Well, if I told you that, earlier in this trial, the
10 government showed all the exhibits to a couple of the
11 witnesses, and the drill that they're talking about would be a
12 hammer drill, --

13 A. Okay.

14 Q. -- that's not an electromagnetic drill, is it?

15 A. No.

16 Q. Okay. You do recall the hammer drill, don't you?

17 A. Yes.

18 Q. Okay.

19 A. I don't see -- I don't see it referenced on here.

20 Q. Okay. So it's fair to say that it wasn't in the Raymond
21 storage bin?

22 A. Fair to say.

23 Q. Okay. Now, Special Agent Costello, did Rob Doucette tell
24 you that he purchased an electromagnetic drill press just prior
25 to the Brink's burglary?

1 A. No.

2 Q. He didn't tell you that?

3 A. No.

4 Q. So, if he didn't tell you that, he withheld that
5 information?

6 A. I wouldn't have asked that type of question, but --

7 Q. Well, if you've determined that one was used and you
8 didn't find it in the storage bin, wouldn't you start
9 investigating and trying to determine where this item was or
10 where it came from?

11 A. We didn't follow that up.

12 Q. Didn't follow that up. So you laxed off on your
13 investigation in regards to specific leads of this crime?

14 A. Well, there was -- you recall, when we searched your
15 residence and your warehouse, there were a lot of tools in a
16 lot of places. To me, it was logical that maybe it got moved,
17 maybe it came out of that stuff when the stuff was moved.

18 Q. When you searched my house, did you find an
19 electromagnetic drill press?

20 A. Not to my knowledge, my point being, a lot of tools might
21 have gone other places. So, you know, I did not think that,
22 based on what he told me and the fact we didn't find one in
23 Raymond, that -- I didn't find that all that troublesome, to be
24 honest.

25 Q. Well, you did know that he was in total control of the

1 tools from the time that he went out west to pick them up,
2 don't you?

3 A. He and Joe Morgan, yeah.

4 Q. Okay. Now, did he tell you that Joe Morgan or him went
5 into the storage facility anytime prior to Joe Morgan getting
6 arrested?

7 A. I don't think he did.

8 Q. So, if he didn't go into the storage facility anytime
9 before Joe Morgan got arrested, that only leaves Rob Doucette
10 in charge of the tools, correct?

11 A. Well, they did discard a lot of metal things, the pallets
12 that the coins went out the door on. They discarded the
13 surveillance systems, you know, some of that, to scrap. So
14 it's possible that one of them took that drill because it's a
15 high value item, and it went somewhere else.

16 Q. It's possible, but you don't have any information about
17 that?

18 A. Well, I wouldn't have any information.

19 Q. You're speculating.

20 A. Well, that's what you've essentially asked me to do.

21 Q. No. I asked you specific questions. I said -- I asked
22 you if Rob Doucette was in total control of the tools after Joe
23 Morgan got arrested. That's what I asked you.

24 A. Yes.

25 Q. Okay. And I asked you if Rob Doucette told you that he

1 purchased this electromagnetic drill prior to the Brink's
2 burglary.

3 A. He did not.

4 Q. Okay. And if he didn't tell you that he purchased it and
5 it wasn't in the storage bin, it was, obviously, removed,
6 because, probably, he didn't want you to tie him to this
7 burglary; would you say?

8 A. Well, he brought us to the storage unit. So that kind
9 of -- and he admitted to it. So that -- if he moved it
10 earlier, then maybe that was his plan; but, when he had a
11 change of heart and decided to cooperate with us, he tied
12 himself, pretty cleanly, to the burglary.

13 Q. Okay. Let's just go over that briefly.

14 You said that you approached him on April 8th.

15 A. Right.

16 Q. When did he reach out to you to initially start that he
17 wanted to cooperate?

18 A. His attorney sent me a letter probably two weeks later and
19 said that, if we wanted to discuss something with him, to run
20 it through his attorney.

21 Q. So he knew within two weeks of you going to him that he
22 was going to cooperate?

23 A. Whether he knew or I -- I mean, when he made the decision,
24 I don't know. When I first contacted his attorney, it wasn't
25 decided that he wanted to cooperate. We told him we wanted him

1 to, and took some time for him to finally come around and come
2 to the table and sit down and at least hear us out.

3 Q. But the initial contact with you that he was willing to
4 cooperate was within two weeks of you going to see him?

5 A. Again, the initial contact was with his attorney. His
6 then attorney asked why we wanted to speak with him. So when
7 he decided he was willing to cooperate, my guess, happened
8 immediately before we sat down with him.

9 Q. Now, you testified about these burglary clothes.

10 A. Uh-huh.

11 Q. Did you find any burglary clothes in the Raymond storage
12 bin?

13 A. Not to my recollection.

14 Q. Now, did the FBI do a shoe print analysis?

15 A. I do not know.

16 Q. You do not know. Now, when you went in the bin, did you
17 notice that these clothes were missing?

18 A. Yeah. We would have expected to find those types of items
19 there, but they weren't.

20 Q. Okay. And did you ask Nassor or Doucette where these
21 clothes were?

22 A. No.

23 Q. You didn't?

24 A. No.

25 Q. Now, wouldn't the clothing that the burglars wore on the

1 weekend of the crime, wouldn't they have DNA on them?

2 A. They might.

3 Q. More than likely. Can you explain what clothing these
4 burglars wear, again?

5 A. Well, by your book, some sort of flight suit over top of
6 other multi-colored clothes and over boots.

7 Q. Now, would sweat possibly get into these flight suits?

8 A. It's possible.

9 Q. And was there any -- was there any mention of any masks?

10 A. Uh-huh, yes, masks as well.

11 Q. Masks that go over the head? Now, wouldn't sweat and hair
12 and other items of DNA be lodged in these masks?

13 A. Sure. They would be a great piece of evidence.

14 Q. Now, so, obviously, my question, my initial question was
15 that the clothing would establish who wore those clothes.

16 A. It could, yes.

17 Q. And do you think that's why Rob Doucette got rid of the
18 clothes: because it would establish who actually wore them?

19 A. I don't know that he got rid of the clothes.

20 Q. Well, you stated that they weren't in the Raymond storage
21 facility.

22 A. Right. Right.

23 Q. And you stated that you don't believe that he went in
24 there prior to Joe Morgan getting arrested.

25 A. Let's back up. The life cycle of those clothes would have

1 been when the three of you wore them in the Brink's facility.
2 They could have been discarded in a trash bin in Warrendale and
3 taken out for the collector.

4 So we don't know of that -- I don't -- I don't know if
5 those clothes were secured in the Warrendale unit and made the
6 trip from Warrendale back up to New Hampshire. We don't know
7 that. So they may have dropped out of the bag of goods. They
8 might have been discarded out a car window driving down a
9 highway. I don't know.

10 Q. So Rob Doucette didn't tell you anything about that?

11 A. No.

12 Q. So, if I told you he testified that they were in the
13 Pennsylvania storage facility and they did make it to Raymond,
14 would you disagree with me?

15 A. I can't disagree with you. I never saw them in Raymond.

16 Q. Okay. Special Agent Costello, did Rob Doucette ever tell
17 you about a truck cover?

18 A. Yeah. He said something about putting a tarp, or
19 something like that, over the truck.

20 Q. And did Rob Doucette tell you that he purchased this RV
21 cover tied to the Brink's burglary?

22 A. No.

23 Q. So this is other information that he withheld from you?

24 A. Well, he told me they covered the truck. That was good
25 enough for my purposes.

1 Q. Okay. Wouldn't it have been important to say, Oh, by the
2 way, I purchased this item, like I purchased the
3 electromagnetic drill? You don't think that would have been
4 important for him to tell you that?

5 A. Him buying a tarp I wouldn't think is the actual relevant
6 portion. The relevant portion is that he admitted to covering
7 the truck with the tarp.

8 Q. Okay. You testified that Brink's had video surveillance
9 units?

10 A. Yes.

11 Q. And that the burglars removed these units from Brink's?

12 A. That's what I was told, yes.

13 Q. Do you know how many units there were?

14 A. No, I don't, off the top of my head, no.

15 Q. Did you find the video recording units in the Raymond
16 storage bin?

17 A. No.

18 Q. Did you notice that they were missing?

19 A. We didn't expect to find them there.

20 Q. Did you ask Nassor or Doucette what happened to them?

21 A. Mr. Doucette told us in his proffer that he and Joe Morgan
22 disassembled them, sold some of the casings for them to the
23 scrap dealer that took the pallets for the coins, and that all
24 of the electronics, basically the hard drives, the circuit
25 boards, they threw into the ocean to get rid of.

1 Q. And wouldn't the video footage establish who actually
2 committed this crime?

3 A. It could.

4 Q. It would have been the best evidence that would have been
5 available?

6 A. Yeah. But when it's on the bottom of the Atlantic, it's
7 not going to help as much.

8 Q. And your witness put them there?

9 A. Yep.

10 Q. So, when I asked you earlier if you had any evidence --
11 one of the first questions I asked you, I said, Do you have any
12 evidence that led you to believe that Rob Doucette or Nassor
13 destroyed any evidence -- you said no.

14 A. Well, he told us about it. And it was during the days
15 following the crime. So, to me, he hasn't withheld any
16 evidence from me. He was up front with me about that. So --

17 Q. That's not what I asked you. I asked you if you had any
18 evidence that would lead you to believe that Nassor or Doucette
19 destroyed any evidence, and you said no.

20 A. Okay. Then I misunderstood the question.

21 Q. Oh, okay.

22 And by these tools missing from this storage bin, wouldn't
23 that be withholding evidence, too, if they took them out?

24 Knowing that they were part of this crime and they were part of
25 a crime scene and not giving them to the FBI, wouldn't that be

1 withholding evidence?

2 A. I don't know that they took them out. So I can't tell you
3 if they're withholding them. I don't know.

4 Q. Okay. They didn't get up and walk out on their own, did
5 they?

6 A. (No response.)

7 Q. And it's looking like that all the key evidences that
8 would prove who did this crime were removed by Rob Doucette,
9 doesn't it, the clothing and the video?

10 A. We already talked about the clothing.

11 Q. Okay.

12 A. That wasn't addressed with him. I don't know what he
13 testified to, but that wasn't addressed between us and him.

14 The hard drives and the video surveillance, he did tell us
15 in his early -- when he first talked to us, or in the proffer,
16 that he and Joe Morgan, together, had done that, yes.

17 Q. Special Agent Costello, do you think you may have
18 underestimated the manipulative skills of Rob Doucette?

19 A. No.

20 Q. Special Agent Costello, did Rob Doucette tell you about a
21 Lynn storage facility on the Lynnway, a U-Haul facility?

22 A. I don't recall.

23 Q. You don't recall?

24 A. Hu-uh.

25 Q. Did he tell you that he rented this facility after he got

1 back from picking up the tools and that's where he put the
2 video units and the coin racks?

3 A. No. He talked about a storage unit up in Raymond, New
4 Hampshire.

5 Q. So he never told you about the Lynn facility?

6 A. Not that I remember, no.

7 Q. So, if he testified in this trial that there was a Lynn
8 U-Haul storage facility that he put items from Brink's in there
9 and he didn't tell you about that, is that clearly withholding
10 evidence from the FBI?

11 A. He didn't tell me about it.

12 Q. So, to answer your question then, if there was a Lynn
13 facility and he put items in from Brink's, it's withholding
14 evidence?

15 A. Well, that's something he should have told us.

16 Q. Okay. Do you think Rob Doucette will ever be charged with
17 obstruction of justice?

18 A. That's not my call.

19 Q. That's not your call?

20 A. Nope.

21 Q. Did you find any of Murphy's DNA or fingerprints anywhere
22 inside Brink's building?

23 A. Not to my knowledge.

24 Q. Do you have any video that places Murphy in or around
25 Brink's?

1 A. Not to my knowledge.

2 Q. Did you find Murphy's DNA or fingerprints on anything
3 taken from Brink's?

4 A. Not to my knowledge.

5 Q. And you've already testified that you have no evidence and
6 no video that even places Murphy in the State of Ohio?

7 A. Correct.

8 Q. Did you collect DNA samples from all the participants in
9 Brink's?

10 A. Yes.

11 Q. Did you collect a DNA sample from David Nassor?

12 A. I don't believe him, because he was not actually out there
13 at the time. He told us that he went out in advance.

14 Q. Well, that's what he told you. I asked you if -- is Mr.
15 Nassor a co-conspirator?

16 A. Sure.

17 Q. Was he -- so he was involved in this crime?

18 A. Right. We took the samples from the three that we
19 believed to go to Brink's and commit the actual burglary.

20 Q. Okay.

21 A. That would be yourself, Joe Morgan, and Rob Doucette.

22 Q. According to Rob Doucette?

23 A. Yes.

24 Q. Okay. And isn't it true that there were DNA samples found
25 that didn't match Murphy, Doucette, or Morgan?

1 A. I have heard of that, yep.

2 Q. Okay. So there are people that are actually involved that
3 you didn't take DNA samples from?

4 A. I've been told that a cigarette butt was found and it had
5 DNA on it.

6 Q. And is there anything else, any other samples of DNA that
7 may have been found on the items in the storage bin that didn't
8 match Murphy, Doucette, or Morgan?

9 A. I haven't seen the DNA report, so I don't know.

10 Q. You didn't review them?

11 A. That wasn't my portion of the investigation to run.

12 Q. Okay. And you testified that there was DNA samples found
13 inside Brink's that didn't belong to any of the three suspects?

14 A. I have been made aware of one such instance, yes.

15 Q. Okay. And are you aware of the person who helped Rob
16 Doucette move some of these items and rent storage bins and
17 rent trucks?

18 A. Yes.

19 Q. Who would that person be?

20 A. He gave me a name of Jim Hennessey.

21 Q. Jim Hennessey. Did you do any investigation on a Jim
22 Hennessey?

23 A. No.

24 Q. No?

25 A. No.

1 Q. Okay. We have a person who rented storage bins and rented
2 trucks for Rob Doucette to move stolen items, and you didn't do
3 an investigation on this guy?

4 A. Well, it was after the Brink's burglary. And our focus
5 was on the Brink's burglary. So it's not something we deemed
6 important to follow up at that time.

7 Q. Well, most of the investigation happened months after the
8 Brink's burglary anyway, correct?

9 A. Yes.

10 Q. And so that this time frame, which would be four to six
11 months after, is where all the investigation focused anyway.
12 And you have information that a specific person assisted
13 basically a co-conspirator with Rob Doucette, and you didn't
14 investigate him?

15 A. No.

16 Q. You didn't take his DNA?

17 A. No.

18 Q. You didn't take his fingerprints?

19 A. No.

20 Q. You didn't question him?

21 A. No.

22 Q. And what did Rob Doucette tell you about this guy, James
23 Hennessey? What did he tell you?

24 A. That he was a friend and that, when he needed a truck for
25 he and Joe Morgan to quickly drive down to Warrendale on

1 January 23rd of 2009, that he told him that he needed a truck
2 and a storage locker to move some of his mother's estate, to
3 quickly move it, and that he got him a truck and storage unit
4 as requested.

5 Q. Okay.

6 A. He also followed up later and did tell us that when --
7 after Mr. Morgan was arrested, that when he then believed it
8 was in his best interest to move the stuff across town, that
9 Mr. Hennessey did help him move the stuff across town.

10 Q. So he did tell you that? So you knew that Mr. Hennessey
11 had direct contact with this -- these items from Brink's?

12 A. I recently learned that name, yes.

13 Q. Okay. So this is information that he didn't give you for
14 the first two --

15 A. He told us that a friend had helped him. He was reluctant
16 at the time to name this friend. And we didn't push too hard,
17 because the proffer -- we did not want to hamper the efforts to
18 complete the proffer, and we never went back and asked him the
19 name of that friend. I only recently learned that Jim
20 Hennessey, in addition to helping to rent the trucks, the truck
21 and the storage locker, also was the friend that helped move
22 the items later on.

23 Q. So that would be information, again, that he withheld from
24 you?

25 A. Well, he said it was a friend. I didn't push because I --

1 based on my take on how the interview was progressing, I did
2 not want that to dampen our efforts to get all the way through
3 to the end and determine the location, which was the most
4 important thing to us at that time: the location of the tools
5 and the money.

6 Q. So you're saying that you knew that Jim Hennessey had
7 helped him during these proffer sessions?

8 A. No. Well, Jim Hennessey -- yes. During the initial
9 proffer, he told me that Jim Hennessey rented a truck so that
10 he and Joe Morgan could drive down and back from Warrendale and
11 rented a storage unit in Raymond.

12 When Mr. Morgan was arrested on April 8th, sometime
13 thereafter, Mr. Doucette felt that it was in his best interest
14 to move the stuff once again. He asked for help. At the time,
15 he told us it was a friend. He was initially reluctant to name
16 the friend; did not want the friend to get into trouble.

17 In the interest of allowing the proffer to continue, we
18 didn't push him too hard on that. We never did go back and ask
19 him the name of that friend. It's only recently that I asked
20 him, once again, who the name of the friend was. And he told
21 me that it was, in fact, Jim Hennessey.

22 Q. So he withheld that evidence from you?

23 A. I wouldn't call it withholding. I would say I didn't push
24 and follow up. He knew who it was. He told me it was a
25 person. He didn't tell me no one helped him. He said someone

1 helped him. I didn't push because I did not want to shut down
2 the proffer right there.

3 When I asked him the second time, which was recently,
4 recognizing that that was an oversight, not seeing who that
5 friend was, when I asked him, he came clean with me and said it
6 was Jim Hennessey.

7 Q. Yeah. That's two-and-a-half years later, right?

8 A. Well, that's when I asked him the question.

9 Q. Okay.

10 A. I haven't seen him.

11 Q. Okay. Now, if this guy, Jim Hennessey -- if this guy, Jim
12 Hennessey, actually was involved and helped move stolen items
13 from Brink's and rented trucks and rented bins, is he not a
14 co-conspirator?

15 A. I'd have to defer to the U.S. Attorney's Office on that.

16 Q. In your opinion -- you're an FBI agent. You've been an
17 FBI agent since 2004.

18 A. Uh-huh.

19 Q. You've arrested many people?

20 A. Yes.

21 Q. You've indicted many people?

22 A. Yes.

23 Q. In your opinion, the actions of Jim Hennessey, is he a
24 co-conspirator in this case?

25 A. If he had knowledge of what he was doing and why he was

1 doing it, then yes.

2 Q. And you just testified that he moved the stuff. He
3 wouldn't have -- if you go into a facility and you see all
4 these boxes of coin that say "Brink's" on them and you're
5 renting storage bins and you're renting trucks, that's
6 knowledge, isn't it?

7 A. It's knowledge of something. It isn't necessarily
8 knowledge of a burglary.

9 Q. Okay. Did you even check to see if James Hennessey had a
10 criminal record?

11 A. No.

12 Q. You did a real good investigation, Special Agent Costello.

13 A. Thank you.

14 Q. Now, in regards to the items in the Raymond storage
15 facility, did you ever find one little battery that was
16 separated from everything else?

17 A. I don't know. We found a lot of items.

18 Q. So, if I had -- if I show you a picture of -- when you
19 took pictures of these items, you laid them out on pieces of
20 paper and took pictures of everything as they came out?

21 A. We took photos as we went into the storage unit. Things
22 removed that were in bags, they stayed in those bags, were
23 transported to a more secure facility so we could look at them
24 and package things up.

25 Q. And when you got to that facility, you laid out all the

1 items as they came out of the bags and took pictures of them?

2 A. Yeah. I don't know if they photographed every single
3 item. They might have done group shots of some things.

4 Q. No. That's what I mean: in group shots.

5 A. Potentially, yeah.

6 Q. So, if I showed you a picture which had a picture of one
7 battery, just separate from things, would that recollect your
8 memory that there was a single battery just laying out in the
9 bag somewhere?

10 A. No.

11 Q. It wouldn't?

12 A. Well, like I said, there were a lot of items. So a single
13 battery in and of itself wouldn't jog my memory. If you show
14 me the photo, then I'll know that it came from our
15 photographer; so it would have come from one of those bags.

16 Q. Can you give me a minute so I can get the photo?

17 A. Sure.

18 (Whereupon, there was a brief interruption.)

19 BY MR. MURPHY:

20 Q. Does this photo look familiar, Special Agent Costello?

21 A. Yes.

22 Q. Right here (indicating), what's that laying next to the
23 flashlight?

24 A. That looks like a Duracell battery.

25 Q. And it's separate from everything else. So that would

1 have been just laying around in the bag?

2 A. Yeah.

3 Q. Do you have any opinion why one single battery would be
4 laying around in a bag?

5 A. No.

6 Q. Okay.

7 THE COURT: How much longer are you going to be with
8 this witness?

9 MR. MURPHY: I have awhile to go, Your Honor.

10 THE COURT: Let's take a break, then.

11 Remember the admonition not to discuss this case with
12 each other. Don't allow anyone to discuss the case with you.
13 Report any violations, and the rest of the admonition.

14 We'll be back in 15 minutes.

15 (Whereupon, a recess was taken at 11:37 a.m., and the
16 proceedings reconvened at 11:58 a.m., when the jury was seated
17 in the jury box.)

18 - - -

19 IN OPEN COURT:

20 THE COURT: You may continue.

21 MR. MURPHY: Thank you, Your Honor.

22 BY MR. MURPHY:

23 Q. We were discussing James Hennessey before we had the
24 break, and you didn't feel that it was important to follow up
25 on any of the information regarding James Hennessey?

1 A. I deemed it of low importance at the time because of other
2 things that we were doing.

3 Q. Has it ever resurfaced?

4 A. No.

5 Q. And you testified that you don't have any video that
6 places Murphy at the Pennsylvania storage facility?

7 A. That hasn't come up yet.

8 Q. Okay. Did law enforcement execute a search warrant at
9 that facility?

10 A. Yes.

11 Q. Were you present?

12 A. No.

13 Q. You weren't present?

14 A. No.

15 Q. To your knowledge, was anything found there?

16 A. No.

17 Q. So, besides the testimony of Rob Doucette, do you have any
18 evidence that anything was ever in that bin?

19 A. No. Just his testimony.

20 Q. Now, did you ever receive information from Morgan,
21 Doucette, or Nassor that they weren't happy with the Warrendale
22 storage facility?

23 A. No.

24 Q. You didn't receive information that, because the gate was
25 open, they didn't like that?

1 A. Nope.

2 Q. And you didn't receive information that, because there was
3 so many video units, that they didn't like that?

4 A. No.

5 Q. You testified about this Core Bore unit. Do you remember
6 that testimony?

7 A. Uh-huh. Yes.

8 Q. Was the Core Bore unit used in the Brink's facility?

9 A. It doesn't appear so.

10 Q. And, Special Agent Costello, are you aware of any crime
11 that this Core Bore unit was ever used?

12 A. No, I'm not aware of anything.

13 Q. And do you know where it came from?

14 A. No.

15 THE COURT: What are you talking about? The unit?

16 MR. MURPHY: The Core Bore unit, the unit that they
17 described that it bores a big hole in cement and goes through.
18 Your Honor, it's been discussed several times in this trial
19 already.

20 THE COURT: All right.

21 MR. MURPHY: It's a unique item. Unless you are
22 paying attention and knew what it was, it could have just got
23 by you.

24 BY MR. MURPHY:

25 Q. Now, are you aware of any items that Rob Doucette put into

1 the Raymond facility that didn't come from -- directly from
2 Pennsylvania and go in there?

3 A. He may have indicated that one of the jammers might have
4 been stored somewhere else and put up there.

5 Q. Okay. That would probably be Sean's big jammer?

6 A. Could be, yeah.

7 Q. Yeah. Well, there's been testimony that supports that
8 contention.

9 A. I'm not privy to other people's testimony in the
10 courtroom.

11 Q. Okay. So, besides Murphy's big hundred watt jammer, are
12 you aware of any other evidence that Rob Doucette put into the
13 storage facility that didn't have anything to do coming back
14 from Ohio?

15 A. No.

16 Q. Did Rob Doucette tell you what these thieves did when they
17 got back from the score?

18 A. Got back to where?

19 Q. Got back to Lynn.

20 A. Yes.

21 Q. And what did they do?

22 A. He said you, Joe Morgan, and Rob started counting the
23 money, and that -- I don't know if it was every day, or at
24 least on a couple of the days, David Nassor came by to get his
25 cut, as well, for his services beforehand; so started counting

1 the money, separating the burnt cash from the non-damaged cash.

2 Q. Thank you. That's -- that's the testimony I'm looking
3 for.

4 A. Okay.

5 Q. So you are aware from Rob Doucette's testimony that he
6 says that there was -- all the money went back to his house,
7 the burnt cash and the regular cash?

8 A. I am aware from what he told me, not from his testimony,
9 yes.

10 Q. Okay. You are not aware of his grand jury testimony?

11 A. I've read my grand jury testimony, but I proffered him.

12 Q. Okay. Based on this information that you're discussing
13 right now, --

14 A. Uh-huh.

15 Q. -- wouldn't that indicate, at least from what you were
16 told, that all the money went to Rob Doucette's house?

17 A. He said that you guys brought it to his house, counted,
18 and then, at the -- at the end of every day, you would lock it
19 in the rental car. This way, everybody's -- it would all stay
20 in the rental car. No one would have access to it until you
21 all collectively resumed counting the following day.

22 Q. Okay. We'll get to that point a little bit later.

23 So it's fair to say that, according to Rob Doucette, all
24 the money stayed in Lynn?

25 A. The cash money stayed in Lynn, yes.

1 Q. Yes. Okay. Did you find any cash money in the Raymond
2 storage bin?

3 A. Yes.

4 Q. So wouldn't that indicate that Rob Doucette went up there
5 and put cash money in the bin?

6 A. Yeah. It came from Brink's. It's money -- you asked me
7 if anything not used he added.

8 Q. Okay. Well, okay.

9 A. The money was derived from Brink's. So he added that, but
10 that was not something that was foreign to the whole crime.

11 Q. Okay. So -- I apologize for not being clearer.

12 Besides the big jammer that Rob Doucette put into the
13 storage bin that didn't go to Ohio, he also put in burnt money
14 at a later date?

15 A. From Brink's, yes.

16 Q. From Brink's. Okay.

17 A. Uh-huh.

18 Q. How much burnt money did you recover in total?

19 A. Well, we estimated, just based on a very, very, very rough
20 count of bills that were over fifty percent intact, maybe
21 28,000. That was just, again, something to put on a piece of
22 paper. We really wouldn't know what the true value would be
23 until it went to the fed.

24 Q. And how much -- I'm not going to hold you down to a
25 specific number. I'm just looking for a generalization here.

1 How much burnt money would you say was less than fifty
2 percent intact?

3 A. I would have no idea.

4 Q. No idea?

5 A. Well, no, because we could only really estimate what was a
6 bill that appeared to be half a bill.

7 Q. Well, if it was less than half a bill, you would at least
8 know what the bill was, wouldn't you?

9 A. Maybe. Sometimes you could recognize it, yeah.

10 Q. And you didn't -- you didn't -- you don't have an opinion
11 as to how much --

12 A. No. We weren't interested in counting the little scraps.
13 We just wanted a very rough estimate of about how much currency
14 was in those bags.

15 Q. And would you say that the bulk of the money that you
16 recovered, the bulk of it -- I'm saying 60, 70, 75 percent --
17 was the bulk of it more than fifty percent intact?

18 A. I don't know what the breakdown was. I mean, we took a
19 photo of it. So, I mean, there is a photo of what it looks
20 like, and it's in evidence. So --

21 Q. Okay. Well, I mean, you were there. You seized the
22 money.

23 A. Yes.

24 Q. And you went through it.

25 A. Yes.

1 Q. And you don't have a recollection?

2 A. Because that fact is not important, because I know that
3 the fed does not restore anything under fifty percent. So we
4 simply focused on the bills that we looked to be fifty percent
5 or larger; counted those so we would have an idea. The rest,
6 we didn't count.

7 THE COURT: Excuse me. That means the bills that are
8 fifty percent or larger are what? Redeemable?

9 MR. MURPHY: By the U. S. Treasury, Your Honor, by
10 regulation.

11 THE COURT: So what was found and counted were these
12 bills that were redeemable?

13 THE WITNESS: We believe so.

14 THE COURT: Which means fifty percent of the bill was
15 left?

16 THE WITNESS: That's our --

17 THE COURT: And the rest is just odds and ends or
18 pieces of other burned money that were smaller?

19 THE WITNESS: Yes, Your Honor. It could be as simple
20 as a little corner of a bill that was separated.

21 THE COURT: Okay. So that's what --

22 BY MR. MURPHY:

23 Q. Now, when you went to that Raymond storage facility, were
24 there burglar's tools in that facility?

25 A. Yes.

1 Q. And did you charge Rob Doucette with possession of
2 burglar's tools?

3 A. Well, knowing that this was going to be a federal
4 prosecution, we didn't charge him with that state charge. He
5 was, obviously, in conversation with the U.S. Attorney's
6 Office. They're a different set of charges that apply.

7 Q. Well, the charge that he was charged with the federal
8 government was interstate transportation of stolen goods.

9 A. Uh-huh.

10 Q. And that would account for the receiving stolen property
11 that would have been in that bin.

12 A. Okay.

13 Q. But in regards to possession of burglarious tools, he
14 wasn't charged?

15 A. Well, again, I'm not an attorney, but my understanding is
16 that, having those items would be one of the elements to one of
17 the conspiracy charges that he was charged with.

18 Q. Really?

19 A. I'm not an attorney.

20 Q. Okay.

21 A. So I think you're asking the wrong person that question.

22 Q. Okay. Well, you're the only one that I can question on
23 this, Special Agent Costello.

24 And you testified that you haven't charged James Hennessey
25 with anything in regards to the Raymond, New Hampshire, bin?

1 A. Yes.

2 Q. Have you -- are you aware of the total amount of money
3 that was missing from Brink's?

4 A. I -- I've heard different numbers thrown around. I mean,
5 I think the loss was ballpark of 2.3 million, is what I've been
6 told; but, again, that's not really my -- I haven't been
7 focused on that part of the investigation. So I've not -- I
8 don't want to say I'm completely accurate on that number.

9 Q. Well, taking into consideration all the recoveries, the
10 recovery of the coin, the recovery of the redeemable burnt
11 money, --

12 A. Uh-huh.

13 Q. -- and the other stuff, do you know -- do you -- after
14 taking all that into account, are you aware of how much money
15 is still missing?

16 A. I'm not, no.

17 Q. If I showed you a list, are you -- have you been made
18 privy of a list made from Brink's?

19 A. I'm aware that there is a list from Brink's; but, again, I
20 haven't been focused on that part of the investigation.

21 Q. If I told you that there was still almost \$900,000
22 missing, would that -- would you disagree with that?

23 A. I would have no basis to agree or disagree.

24 Q. Okay. Right here is robbery, paid losses, from Brink's.
25 And down here, we have what they call internal recoveries.

1 Since the total loss was 2.3 million and you have some internal
2 recoveries, those recoveries would indicate that they were
3 probably recovered from within the building?

4 A. That's what I would understand that to mean.

5 Q. And the Randolph coin would be right down here
6 (indicating)?

7 A. Yep.

8 Q. And the federal reconstruction, that would be the amount
9 of money that was reconstructed?

10 A. If you say so, yeah.

11 Q. And the net loss, what's the net loss?

12 A. Eight hundred, fifty-three thousand and change.

13 Q. Thank you, Special Agent Costello.

14 Now, did Rob Doucette tell you he got a specific cut from
15 this crime?

16 A. Yes.

17 Q. And how much did he tell you he got?

18 A. He said you guys counted up about 200,000, ballpark, maybe
19 one eighty to two hundred; that Nassor was to receive a
20 straight five percent off the top. Your cut -- from the
21 remaining, your cut was to be fifty; Joe Morgan's, thirty; his,
22 twenty percent. So he estimated that he received somewhere in,
23 you know, the 35-to-40-thousand-dollar range, is what he told
24 us.

25 Q. Did Rob give his money back?

1 A. No. He told us he spent it on bills and other things.

2 Q. And were you aware that Mr. Doucette had other money that
3 he had that he could have replaced that money with?

4 A. I'm not aware of his financial situation.

5 Q. You weren't aware that he had 250-to-300-hundred-thousand
6 dollars from a life insurance policy where his mother had just
7 died a few months prior?

8 A. No.

9 Q. So you were basically letting Rob keep his stolen money?

10 A. I talked to him on June 4th.

11 Q. Okay.

12 A. He told me that, the money that he had received that was
13 from the cut from your score, that, he had already spent. So
14 there was no more money to recover from him.

15 Q. Do you think Rob lied to you about how much money he got?

16 A. I think he gave me what he remembered.

17 Q. Now, did Rob ever allegedly say that Murphy got a cut?

18 A. He said that your cut was fifty percent. That was the
19 standing order. He says everybody took cash at the end of
20 every day, whatever had been counted that particular day.

21 Q. So it's your understanding that Murphy left his house with
22 money?

23 A. What he told me was that -- and, you know, you would have
24 to refer to his testimony. But from my recollection of what he
25 told me was that he -- you guys would count every day, that the

1 uncounted money would be locked into the rental car so that way
2 no one could steal from everybody else. And one or two of the
3 nights, he did say that, for whatever reason, you did not want
4 to take your cut home, because probably you didn't want your
5 girlfriends to get to it, so that you would ask Joe Morgan and
6 Rob to maybe hold, temporarily, your share until you got it
7 back from them later. So those are the things that he told me.

8 Q. Okay. Now we're getting to it. Now you're getting to
9 testimony where Murphy didn't take any money, allegedly, and
10 that Rob claimed that he held money?

11 A. On one occasion.

12 Q. Okay.

13 A. But he also said you counted for a period of several days.
14 So he wasn't specific on how much money you left with.

15 Q. Well, so, if Rob Doucette testified that he never had any
16 of Murphy's money and he put it all on Morgan, Morgan may have
17 had it, that would be inconsistent with what he told you?

18 A. I don't know what he testified to.

19 Q. I'm just asking you, if he testified that he never had any
20 of Murphy's money, --

21 THE COURT: You're asking for conjecture now. I've
22 let you go far afield from --

23 MR. MURPHY: Just a minute, Your Honor.

24 I apologize, Your Honor.

25 BY MR. MURPHY:

1 Q. So, based on your investigation, Mr. Doucette told you
2 that he held some of Murphy's money?

3 A. Temporarily, yes.

4 Q. Okay. And did he ever tell you what he did with that
5 money?

6 A. Presumably, you got it back from him.

7 Q. Presumably?

8 A. Yeah. He said he temporarily held onto it for you. From
9 that, I take it that you came and got it from him after. I
10 don't know.

11 Q. Didn't you -- didn't you execute a search warrant for
12 Murphy's house?

13 A. Yes.

14 Q. And when was that executed?

15 A. January 23rd, 2009.

16 Q. And that was only days after?

17 A. Six days after Brink's.

18 Q. But, after they came home from Lynn, how many days was
19 that?

20 A. Well, you guys returned from Lynn, or -- Sunday would have
21 been -- what? -- the 18th. So my guess is you probably arrived
22 late on the 18th, or maybe into the early, early morning hours
23 of the 19th.

24 Q. And, on the 23rd, when you raided, didn't you take Murphy
25 into custody?

1 A. Yes.

2 Q. Okay. So it doesn't look like -- I can't understand when
3 Doucette would have allegedly given this money back, if he had
4 it at all.

5 A. Well, you are counting money from -- on the 19th, 20th,
6 21st, presumably the 22nd. So that was about a four-day block
7 that's unaccounted for from when you got back to Lynn and, as
8 you said, were taken into custody the morning of the 23rd.

9 Q. So, if they're counting money and Doucette is saying that
10 Murphy doesn't want to take the money home and they're not done
11 counting, how does Murphy get this money?

12 You can't -- you can't -- you can't figure it out, can
13 you?

14 A. He said, one night, he kept your money for you. That's
15 what he told us.

16 Q. And you testified that Doucette told you that Nassor was
17 present when the money was being split up?

18 A. He said that he stopped by. I don't know if he was there
19 for the entire counting procedure, but he did stop by. Again,
20 I don't know if it was every day, but he did stop by to
21 retrieve a cut when there was a cut for him available.

22 Q. And did you speak to Mr. Nassor about this crime?

23 A. Yes.

24 Q. Did he ever admit to being at Doucette's house or
25 accepting any money?

1 A. He eventually did, yes.

2 Q. Really? When was this?

3 A. Well, he said he helped you return the rental truck and
4 that, at that point, you gave him a cut of money.

5 Q. That's not what you testified to. You testified that he
6 was at the house and he was splitting the money and received
7 money.

8 A. That's what Rob Doucette told me.

9 Q. Oh.

10 A. Even Nassor told me that he did get a cut of money. He
11 was somewhat vague in his detail, but he told me that he helped
12 you return the truck. So those are the two sources of
13 information that I had.

14 Q. Okay. So, if Nassor says that he never received any money
15 or never saw any money, that would be inconsistent?

16 A. Yes.

17 Q. Okay. So it appears that at least one or both of your
18 informants are lying about something?

19 A. Well, that's how you're characterizing. I'm not thinking
20 they're lying.

21 Q. Okay.

22 A. I'm thinking they're giving me their version of events.

23 Q. Okay. Are you aware that Rob Doucette was spending money
24 frivolously from the time that he cooperated with you, and
25 thereafter?

1 A. I have no knowledge of his spending habits.

2 Q. No knowledge. Did you do any investigating in regards to
3 any financial background into Rob Doucette?

4 A. No. We did not see the need for a financial
5 investigation.

6 Q. You have a guy that breaks into this facility, steals
7 millions of dollars, and there's almost a million dollars
8 unaccounted for, and you see no reason to do a financial
9 investigation into him?

10 A. Well, I had the guy who is the lowest-ranking member of
11 the crew, yourself being the top member of the crew. I know
12 that there was a large fire in Brink's. And when in
13 discussions with case agents out here in Ohio -- I believe that
14 the unaccounted for money you're talking about, I believe, is
15 believed to have largely been incinerated. Based on what he
16 told us, we recovered coin. And he described approximately
17 200,000, or so, usable dollars returning to Lynn.

18 His cut -- he told us that he spent his cut. He was quite
19 clear about that. Didn't try to hide it. He says that he
20 spent it all.

21 Q. Did you ever look into his work history?

22 A. No.

23 Q. So you don't know what his job was, how he earned his
24 money?

25 A. I didn't find that to be a fact that had any bearing on my

1 investigation at the time.

2 Q. Now, in regards to the Raymond storage facility, did you
3 receive any video surveillance from the Raymond storage
4 facility?

5 A. They did not have any.

6 Q. In regards to this investigation in regards to Brink's,
7 did you ever speak with Joe Morgan at all?

8 A. He was unwilling to speak with us about it.

9 Q. Did you ever tell Morgan that you would keep him out of
10 jail if he testified against Murphy?

11 A. He was unwilling to speak with us. And, no, I wouldn't
12 tell him something like that, because there is no way I could
13 keep him out of jail or would want to. So, there you go.

14 Q. I just asked the question, Special Agent.

15 Now, what type of deal did you offer Nassor?

16 A. I don't offer deals. That's the U.S. Attorney or District
17 Attorney's function.

18 Q. Who offered Nassor his deal in regards to this case?

19 A. In regards to the case that he was charged with in
20 Massachusetts, the Bristol County District Attorney's Office
21 offered him a deal. Part of that deal was a proffer where he
22 sat down and told the government about anything he could tell
23 the government about, which ultimately was the initial
24 information that we had on this case.

25 Q. So the deal from this case, which I asked you, Brink's,

1 came from Massachusetts?

2 A. The deal for the case he was charged with came from
3 Massachusetts. He was not charged in this case, because his
4 information was provided under a proffer, which, under good
5 faith, we cannot use against him. So, therefore, there was no
6 basis to charge him on that.

7 Q. Okay. But if -- and anything that flows from that
8 investigation doesn't -- can't be used against him?

9 A. We cannot use his words against him, no.

10 Q. Okay. But, later on, you went and got information from a
11 Rob Doucette.

12 A. Uh-huh.

13 Q. And Rob Doucette implicated Mr. Nassor?

14 A. Yes, he did.

15 Q. And that was separate from Mr. Nassor's words?

16 A. Yes.

17 Q. And he was still wasn't charged?

18 A. Well, that's a decision made by the United States
19 Attorney's Office, not Special Agent Jason Costello.

20 Q. Okay. Now, Rob Doucette faces 20 years in federal prison
21 for the charge that he was indicted for, doesn't he?

22 A. I'm not sure what his maximum sentencing exposure would
23 be.

24 Q. And if Nassor was indicted, he would have faced a
25 substantial prison time, too?

1 A. I don't know his specifics; but I would think, knowing Mr.
2 Nassor, I would say "substantial" is probably an accurate
3 description.

4 Q. Did Mr. Nassor benefit financially from the deal you cut
5 with him?

6 A. Not to my knowledge.

7 Q. He didn't benefit financially?

8 A. Not to my knowledge.

9 THE COURT: Benefit financially from what, Mr.
10 Murphy?

11 MR. MURPHY: From the deal that was cut in this case,
12 Your Honor.

13 THE COURT: In this case?

14 MR. MURPHY: In this case.

15 BY MR. MURPHY:

16 Q. Do you understand?

17 THE COURT: He got a cut.

18 MR. MURPHY: Well, we're getting to that.

19 THE COURT: In this case, the testimony is -- I'm not
20 testifying.

21 MR. MURPHY: Right.

22 THE COURT: -- he got a cut in this case. That's
23 been testified to.

24 MR. MURPHY: Right. I asked him.

25 THE COURT: So --

1 MR. MURPHY: I asked the agent --

2 THE COURT: Why don't you reask him?

3 MR. MURPHY: I'll ask him.

4 BY MR. MURPHY:

5 Q. Did David Nassor benefit financially from the deal you cut
6 with him in this case?

7 A. I did not cut a deal with David Nassor.

8 Q. Okay.

9 A. But the deal that you are referring to, cut by the
10 District Attorney's Office in Massachusetts, that deal was for
11 a number of years to be -- to serve incarcerated. There is no
12 financial benefit that I'm aware of.

13 Q. Okay. Did Mr. Nassor have a private attorney in his
14 Massachusetts case?

15 A. Yes, he did.

16 Q. Do you have any idea how much it cost for him to retain
17 that private attorney?

18 A. I have no idea.

19 MS. HILL: Objection, Your Honor.

20 MR. MURPHY: Okay. Withdrawn.

21 THE COURT: Sustained.

22 BY MR. MURPHY:

23 Q. How much do you think it would cost Nassor to retain a
24 federal attorney in this case if he was charged?

25 A. I have no idea.

1 Q. Would it be substantial?

2 A. I have no idea.

3 Q. You have no idea whether a federal attorney in this case
4 would be substantial?

5 A. I don't know -- I've never had to hire an attorney, Mr.
6 Murphy. So I don't know what the going rate is for a good
7 attorney.

8 Q. And, since Mr. Nassor isn't charged, he doesn't have to
9 pay restitution in this case, does he?

10 A. These are all questions for the Court, not for me. I
11 don't know what any sentencing arrangement would be, will be,
12 theoretically will be.

13 Q. But what I'm getting at, Special Agent Costello, is, if
14 Mr. Nassor doesn't have to pay for a federal attorney and he
15 doesn't have to pay restitution, those are financial benefits,
16 aren't they?

17 A. Indirectly, sure.

18 Q. Okay. And since he's not going to go to jail for this
19 crime, he can work on the street and earn money?

20 A. Mr. Nassor is serving time in the state of Massachusetts.
21 That's all I can tell you. I don't know what he's going to do
22 upon his release.

23 Q. But if he's not going to go to jail for this crime, he can
24 earn money?

25 A. That would be a question for him. I don't know what he's

1 going to do upon his release.

2 Q. And would you agree that that would be a financial
3 benefit, too: being able to work and earn money on the
4 streets, without having to go to jail?

5 THE COURT: This line of questioning is just going on
6 and on.

7 MR. MURPHY: Okay.

8 THE COURT: And I don't think it's relevant.

9 MR. MURPHY: It's not relevant? That --

10 THE COURT: No, it's not relevant to the issues in
11 this case.

12 MR. MURPHY: Well, Your Honor, --

13 THE COURT: That's my ruling, Mr. Murphy.

14 (Whereupon, Mr. Murphy speaks to Mr. Graeff.)

15 BY MR. MURPHY:

16 Q. Special Agent Costello, are you aware that Rob Doucette
17 has cooperated on two times in the past with law enforcement?

18 A. Nope.

19 Q. You're not aware? Are you aware that he was investigated
20 by the Secret Service for counterfeiting money obligations?

21 A. I asked him about that. He told me that he was
22 interviewed by the Secret Service.

23 Q. And was he ever charged with that crime that you're aware
24 of?

25 A. That I'm aware of, no. There has been no charge.

1 THE COURT: You didn't say which crime.

2 MR. MURPHY: The counterfeiting crime, Your Honor.

3 THE WITNESS: As far as I know, he was interviewed as
4 a witness.

5 BY MR. MURPHY:

6 Q. And are you aware that Rob Doucette was caught with
7 marijuana and pills?

8 MS. HILL: Objection.

9 THE COURT: Sustained.

10 BY MR. MURPHY:

11 Q. Special Agent Costello, were you aware that Rob Doucette
12 stole personal belongings from Murphy's warehouse?

13 MS. HILL: Objection.

14 THE COURT: Sustained.

15 MR. MURPHY: Your Honor, I would proffer that this is
16 information that was in one of the letters.

17 MR. DOMINGUEZ: A side bar, Your Honor.

18 THE COURT: Sustained.

19 No. That's my ruling.

20 I'm not going to take -- you understand it?

21 MR. MURPHY: Yes.

22 (Whereupon, Mr. Murphy speaks to Mr. Graeff.)

23 BY MR. MURPHY:

24 Q. Special Agent Costello, in your investigation of this
25 matter, did you ask Rob Doucette about his history in doing

1 burglaries?

2 A. Yes.

3 Q. And what was his answer?

4 A. That he had never done something like this before.

5 Q. And you believed him?

6 A. Seemed very credible. And he did not have a criminal
7 history that would make me think otherwise.

8 Q. Were you aware that David Nassor got hit on the head on
9 August 8, 2008?

10 A. Yes.

11 Q. Was Nassor seriously injured?

12 A. Yes.

13 Q. Are you aware of any information that law enforcement had
14 that Murphy may have been responsible for that injury?

15 A. No.

16 Q. When you were investigating this matter, Brink's, did you
17 ever learn information that Murphy's girlfriend was pregnant?

18 A. Yes.

19 Q. Did she have his baby?

20 A. That's what you told me, yeah.

21 Q. And --

22 THE COURT: What is the relevance of this line?

23 MR. MURPHY: It goes to my closing, Your Honor. It's
24 going to go into my closing. I'm just getting facts out into
25 the thing.

1 THE COURT: It goes to your closing about whether
2 your girlfriend was pregnant or not?

3 MR. MURPHY: Whether I had a baby or two babies.

4 I have one other question from the agent in this
5 line, and then I'm going to move on.

6 THE COURT: This doesn't have anything to do with the
7 crime that you're charged with, or crimes you're charged with.
8 It's not relevant, Mr. Murphy. Stick to the relevant parts
9 about the crime. I'll give you -- I've given you every
10 opportunity you have coming to you on this.

11 Do you have any other questions of this witness?

12 MR. MURPHY: Absolutely, Your Honor. I'm going
13 through them.

14 THE COURT: It's about three hours now.

15 MR. MURPHY: I don't believe it's been three hours.

16 BY MR. MURPHY:

17 Q. Special Agent Costello, when you raided Murphy's house on
18 January 23rd, you seized the storage key?

19 A. Yes.

20 Q. And you testified that you weren't the agent that was
21 present when the bin was searched?

22 A. You mean your house?

23 Q. The bin in Pennsylvania.

24 A. Right. I did not -- I was not in Pennsylvania when that
25 unit was accessed and opened up.

1 Q. Okay.

2 THE COURT: He wasn't there. So what's the next
3 question?

4 MR. MURPHY: I'm moving on. I'm compounding through.

5 THE COURT: Are you on to another subject?

6 MR. MURPHY: Yes.

7 THE COURT: All right. Is it relevant?

8 MR. MURPHY: Yes, it is.

9 THE COURT: Okay.

10 BY MR. MURPHY:

11 Q. Special Agent Costello, are you aware of that Murphy had a
12 security consulting company?

13 A. I've heard that mentioned, but we never found any evidence
14 of a legitimate company existing.

15 Q. Didn't you go to Lynn City Hall and obtain a document for
16 business certificate and zoning that indicated that Murphy had
17 a security consulting company?

18 A. Uh-huh. Well, the permit said that you were allowed to
19 operate a said business out of your home.

20 Q. Now, did the FBI obtain a copy of Murphy's training course
21 from you, from him, for what you described earlier in regards
22 to this --

23 THE COURT: What do you mean by "Murphy's training
24 course"? The book?

25 MR. MURPHY: Your Honor, the book, the information in

1 the book.

2 THE COURT: All right. I'll allow you to ask
3 questions about that.

4 THE WITNESS: I wouldn't call that a training course.
5 In November of 2010, I was made aware of that existence. And
6 then I received a copy of it, yes.

7 BY MR. MURPHY:

8 Q. Had you been made aware of any information prior to that
9 that Murphy had been teaching criminals around Lynn how to use
10 cell phone jammers?

11 A. Anything I know would have been just street hearsay. So
12 nothing tangible to support a formal training process.

13 Q. Okay. Are you familiar with a list that a Lt. Alan Zani
14 -- is he your partner?

15 A. He and I worked together for a number of years.

16 Q. Are you familiar with a list that he compiled that he
17 believed to be professional burglars in the City of Lynn?

18 A. I think I saw a list a long time ago that was circulating
19 of known commercial B & E, or breaking and entering, types in
20 and around Lynn.

21 Q. And what did Lt. Zani call this group of people?

22 A. Well, it wasn't just him. All law enforcement called them
23 the Lynn Breakers.

24 Q. The Lynn Breakers. And --

25 THE COURT: Lynn Breakers?

1 THE WITNESS: Yes, Your Honor. It's a reference --
2 everyone -- everyone was either from Lynn or had some sort of
3 tie to Lynn and had a demonstrated history of committing
4 various burglaries.

5 So law enforcement, over a couple of decades, a lot
6 of burglaries, pharmacies, other types of institutions, a lot
7 of those things were attributed back to this group of people in
8 Lynn, and they were dubbed, just as a collective nickname, the
9 Lynn Breakers.

10 THE COURT: I see.

11 BY MR. MURPHY:

12 Q. And I'm not going to hold you to any specific number, but
13 is it fair to say that there's probably about 150 people on
14 this list?

15 A. Could be. I don't know. I haven't seen that list in a
16 number of years. And that -- I think the list that you're
17 referring to, I'm pretty sure I've seen the same one. It's
18 old. So, you know, but there are -- suffice it to say, there
19 are a lot of names on it, yeah.

20 Q. Okay. And would it be fair to represent that there are a
21 lot of people that fit that criteria that aren't listed on that
22 list?

23 A. Well, it's an old list. So, whoever wrote it, which I
24 don't even know who prepared it, at the time they were writing
25 it, that's who they thought was -- a name should be on a

1 particular list.

2 Q. Okay. Now, Special Agent Costello, I'm going to ask you a
3 bunch of questions in regards to what Rob Doucette told you
4 back in June of 2009. Did you testify that you testified
5 before the grand jury in July of '09?

6 A. Yes, I did.

7 Q. And you wrote at least two FBI 302 reports regarding the
8 information received from Rob Doucette?

9 A. Sounds about right.

10 Q. You also testified before the grand jury in this matter in
11 January of 2011?

12 A. Yes.

13 Q. And Rob Doucette testified before the grand jury in June
14 and July 2009?

15 A. Sounds about right.

16 Q. Would you have documented and testified to all the matters
17 of importance that Rob Doucette told you according to the
18 Brink's burglary?

19 A. I don't understand your question.

20 Q. Would you have documented -- I'll separate it into two
21 separate questions.

22 Would you have documented all matters of importance that
23 Rob Doucette told you regarding the Brink's burglary?

24 A. Well, my 302 on my interview with Rob was a very general
25 302 because the interview was recorded. So I didn't document

1 in detail the topics that he covered, because it was a recorded
2 interview.

3 Q. Would you agree that, if it was a matter of importance, it
4 would have been documented?

5 A. No.

6 Q. You don't?

7 A. Because it was a recorded interview. There was no need
8 for me to write a summary of it. So, if anything, I'm sure --
9 I would have to look at my 302, but when we have conducted
10 recorded interviews, I generally just write a summary to say
11 this is the topic that was discussed. The recording is the
12 recording.

13 Q. And would you have testified -- since -- you've testified
14 twice in this matter at the grand jury?

15 A. Right.

16 Q. Would you have testified to all the matters of importance?

17 A. Well, when we put in -- before the grand jury, not every
18 single fact known to us is put in. It's -- there are certain
19 topics that get put in. There are certain that don't need to
20 go in at that time.

21 He discussed a lot of important things on that recording
22 which I'm sure didn't come in the grand jury because there
23 wasn't a pressing need to get them in at the time. It's still
24 documented in the form of a recorded interview. Okay.

25 Q. Did Rob Doucette tell you that he saved the burnt

1 currency?

2 MS. HILL: Objection.

3 THE COURT: Sustained.

4 MR. MURPHY: Excuse me.

5 (Whereupon, Mr. Murphy speaks to Mr. Graeff.)

6 BY MR. MURPHY:

7 Q. Special Agent Costello, during the course of your
8 investigation, did you ever learn or hear from any witness that
9 any money was burned in Rob Doucette's kitchen from Brink's?

10 A. I believe, lately, you know, when he was getting prepped,
11 and I remember -- I think that topic might have come up that
12 the little cinders, whatever, were just burned to be gotten rid
13 of.

14 Q. But this isn't information that he gave you in the first
15 two-and-a-half, three years?

16 A. Hu-uh.

17 Q. Did you ever receive information that the person who gave
18 Murphy his Brian Hetherman ID information was Rob Doucette?

19 A. No, I didn't receive any of that information.

20 Q. You wouldn't have thought that that was important?

21 A. You had the ID. I really didn't -- the source of a fake
22 ID would have been a state crime, and we really didn't see the
23 need, based on the actual crime that we were looking to prove,
24 to go down that road after the fact.

25 Q. Did you ever receive information that Murphy went into the

1 Brink's vault from Rob Doucette?

2 THE COURT: Went into the Brink's vault?

3 MR. MURPHY: Vault. Inside the vault.

4 THE WITNESS: I don't know if the -- I can't remember
5 if he said you went in or stood outside and pulled money out.

6 I don't recall.

7 BY MR. MURPHY:

8 Q. So you don't -- you don't recall?

9 A. (Shakes head.)

10 Q. Did you ever receive information from Rob Doucette that he
11 stole a digital money counter from Brink's?

12 MS. HILL: Objection.

13 THE COURT: Overruled.

14 THE WITNESS: No.

15 BY MR. MURPHY:

16 Q. You never received that?

17 A. No.

18 Q. So that would have been information that he withheld from
19 you?

20 A. If in fact he did steal one. I don't know how I would
21 know that he stole one.

22 Q. Well, I asked you if you'd have received information.

23 A. I've never received that information. I don't know of its
24 validity. So, therefore, when you've asked me if he withheld
25 information, that wouldn't count, because I have no idea of

1 that piece of information as to where it came from.

2 Q. Now, did Rob Doucette tell you -- well, did you receive
3 information from Rob Doucette of why he didn't rent the storage
4 bin, himself, up in Raymond, New Hampshire?

5 A. Because he didn't want it in his own name.

6 Q. Did he say anything about a fake ID that he did or didn't
7 have?

8 A. He said he didn't have a fake ID and that's why he needed
9 help.

10 Q. So that if -- then, if he testified that he did have a
11 fake ID, that would be inconsistent with what he told you?

12 A. If that's the case, and that would be an inconsistency.

13 Q. Okay.

14 THE COURT: Can you estimate how long you'll be with
15 this witness?

16 MR. MURPHY: I have probably another fifteen, fifteen
17 minutes, to a half an hour, Your Honor.

18 THE COURT: All right. We'll have to break, then,
19 for lunch.

20 Remember the admonition. One hour.

21 - - -

22

23

24

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

(Whereupon, the jury exited the courtroom, and
Witness David Nassor was seated in the witness chair.)

MR. DOMINGUEZ: Your Honor, for the record, so that
the record is complete, the last line the nature of objection
is hearsay. It is absolutely improper for Mr. Murphy to ask to
impeach Rob Doucette by asking Agent Costello questions of what
Mr. Doucette told him. It's hearsay, clearly.

1 THE COURT: Mr. Nassor, you're still under oath,
2 previously administered. That's good for the whole trial. Do
3 you understand that?

4 ** NOTE: Nassor on the witness stand. Yes, I do

5 THE COURT: Okay.

6 THE COURT: Mr. Murphy wants to -- has held you over
7 to testify, as you know. That's why you're here. That's why
8 you're back.

9 THE WITNESS: Okay.

10 ** NOTE: David Nassor on the witness stand.

11 THE COURT: And I will ask you, first, do you give
12 your permission to have Mr. Murphy interview you, -- this is
13 not the testimony -- to have him interview you before your
14 testimony? And we will not be present if I allow that to
15 happen.

16 THE WITNESS: Yeah. I'm fine with that as long as
17 this gets over. I just want this to end.

18 THE COURT: Okay. Do you wish to have your attorney
19 present?

20 THE WITNESS: I'm all set. No. I'm good. I don't
21 have an attorney here. So I don't think it's going to be a
22 problem. I mean --

23 THE COURT: Well, we talked to your attorney and
24 asked him of his availability. He is available by phone if you
25 want to talk to him and talk to him out of the hearing of

1 anyone else. In other words, you may talk to him and consult
2 with him before your interview with Mr. Murphy, not your
3 testimony, but before your interview with Mr. Murphy. And, of
4 course, before your testimony. And I strongly suggest, Mr.
5 Nassor, that you talk to your attorney, because you have agreed
6 to tell the truth in this case in exchange for a favorable plea
7 agreement, right?

8 THE WITNESS: Correct.

9 THE COURT: And if you fail to tell the truth, you
10 could jeopardize your plea agreement and potentially face
11 additional charges. Now, I am advising you to tell the truth.
12 I'm not advising --

13 THE WITNESS: Of course --

14 THE COURT: -- you to talk to Murphy or take the
15 stand or not take the stand, but I am advising you that you
16 tell the truth and that you -- I am advising you that it would
17 probably be a good idea to talk to your attorney, if only for a
18 few minutes, and we have made contact with him, without going
19 into any of this, and asked if he would be available to talk to
20 you.

21 THE WITNESS: I will say ^ if he finds the time, Your
22 Honor. I have the worst attorney in the world. Really, his
23 advice is -- I mean --

24 THE COURT: Your answer to that?

25 THE WITNESS: What are you asking? Are you asking me

1 if I want to speak to Mr. Murphy? Correct? Is that what this
2 is all about?

3 THE COURT: Yes. You can speak to him in an
4 interview, --

5 THE WITNESS: Okay.

6 THE COURT: -- a closed interview with just the two
7 of you present. And, of course, the security would have to be
8 present.

9 THE WITNESS: His attorney, too, right?

10 THE COURT: Pardon me?

11 THE WITNESS: His attorney is in there, also?

12 THE COURT: No. Mr. Murphy -- well, Mr. Murphy can
13 have his consulting attorney with him on this interview. I'm
14 saying, I have to have marshals, because we've got this unusual
15 situation where Mr. Murphy is the attorney and the defendant.
16 So I'm sure that doesn't bother you, Mr. Murphy.

17 MR. MURPHY: I believe Mr. Graeff is going to go to
18 lunch, and I don't need him for any consulting.

19 THE COURT: Okay. Well, that's up to you.

20 MR. MURPHY: I would just interview Mr. Nassor.

21 THE COURT: That's fine. That's up to you.

22 THE WITNESS: How long is this going to take? This
23 is quite -- this isn't an all-day thing, right?

24 MR. MURPHY: Your Honor, all I need is probably about
25 45, 40, 45 minutes. That's it.

1 THE COURT: To interview him?

2 MR. MURPHY: Yes, sir.

3 THE COURT: 40 or 45 minutes to have him testify, or
4 interview him?

5 MR. MURPHY: No, Your Honor. For the interview, Your
6 Honor. Maybe 30.

7 THE COURT: I'll give you 30 minutes. And do you
8 waive your right to have your attorney present or consult with
9 your attorney before this interview?

10 THE WITNESS: Yeah. I'm fine.

11 THE COURT: You waive your right?

12 THE WITNESS: Yeah, I waive my right.

13 THE COURT: I want to hear it.

14 THE WITNESS: I just want this to go away. I just
15 want it to end. I don't want to go through this no more.

16 THE COURT: All right. As soon as we exit the room
17 back here.

18 MR. DOMINGUEZ: Just so long, Your Honor, just so
19 long Mr. Nassor knows it's his choice whether or not to go
20 through with this interview.

21 THE WITNESS: I know that, and I understand I'm under
22 the proffer and anything.

23 MR. DOMINGUEZ: I just want to make sure.

24 THE WITNESS: I just want to make sure that you know
25 that, also. This is my farewell, I guess you could call it.

1 THE COURT: Okay. Arrangements have been made so you
2 could be in separate cells, with the marshals, and they can
3 interview. So that it's set up out here. I thought we were
4 going to use right here. That's all right.

5 MR. MURPHY: Thank you, Your Honor.

6 THE COURT: Thirty minutes. Thirty minutes for this,
7 Mr. Murphy. So, get organized.

8 (Whereupon, the lunch recess was taken at 12:52 p.m.)

9 - - -

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Monday Afternoon Session

October 24, 2011

- - -

IN OPEN COURT:

THE COURT: You may continue.

MR. MURPHY: Thank you, Your Honor.

- - -

JASON COSTELLO (CONTINUED)

- - -

CROSS-EXAMINATION (CONTINUED)

BY MR. MURPHY:

Q. Do you remember, Mr. Costello, that we were talking about prior statements that may or may not have been told to you from Mr. Rob Doucette?

THE COURT: Now, as far as prior statements made by other people --

MR. MURPHY: Yes, I understand.

THE COURT: -- I understand that there will be an objection to hearsay.

MR. MURPHY: Okay.

THE COURT: You understand that? You can't be saying what someone else said.

MR. MURPHY: Yes.

Q. (By Mr. Murphy) Special Agent Costello, do you remember testifying at the Grand Jury that Nassor had to replace certain

1 tools that were lost?

2 A. Yes.

3 Q. Was that told to you by any witness at any time?

4 A. He told me that.

5 Q. Rob Doucette did?

6 A. I believe Rob Doucette -- Mr. Nassor did, and I believe
7 Mr. Doucette told me that as well.

8 Q. And would that have been included in your reports?

9 A. Well, again, it was a recorded interview. So, the report
10 may or may not reflect that level of detail. Most likely it
11 does not.

12 Q. Okay. Did you ever receive any information about an Ohio
13 storage bin that was rented?

14 A. No.

15 Q. Did you receive any information about another
16 theft-related offense that may have occurred in the greater
17 Columbus area on the night of January 18th?

18 A. No.

19 Q. Now, getting to the rental truck and the rental car.

20 A. Okay.

21 Q. Did you notice that there was an extra 452 miles on the
22 rental car?

23 A. Yes.

24 Q. And how did -- did you ever try to account for that
25 mileage?

1 A. No. I believe Doucette had told me that the car was used
2 in and around Lynn by you -- or I am not sure by who -- so, it
3 was kept for a couple of days after coming back from Ohio. So,
4 that would seem logical that if there was extra mileage on the
5 odometer, that would account for it.

6 Q. So, you testified that Doucette told you that someone
7 drove the car around?

8 A. I think he said you did.

9 Q. He said I did?

10 A. I believe so.

11 Q. Oh, really. Okay. Now, wouldn't that extra mileage also
12 account for someone, let's say, going back from the
13 Ohio-Pennsylvania border back to the greater Columbus area and
14 then driving back? Would that account for that extra 452
15 miles?

16 THE COURT: That calls for speculation.

17 Q. (By Mr. Murphy) Did you ever receive any information that
18 Murphy preferred to do his scores on holiday weekends?

19 A. I don't think so.

20 Q. You never heard that? You don't recall?

21 A. It doesn't ring any bells.

22 Q. Did you ever receive any information that Murphy allegedly
23 wanted to have the least amount of traveling done with the
24 tools?

25 A. Doucette told us that you wanted to go out to Ohio to do

1 the actual burglary of Brink's and wanted to travel with an
2 empty truck on the way to it. That's why he told us that you
3 and Joe Morgan had moved the tools in advance on a separate
4 date out to Warrendale or to a storage unit -- which he didn't
5 know it was Warrendale -- but into a storage unit.

6 Q. But did you ever receive information, specifically, that
7 Murphy would rather travel with the least amount of tools?

8 A. No.

9 Q. Okay. Excellent. Now, did you ever receive any
10 information about an alleged DNA trip to go collect DNA?

11 A. I was told about that last week. Yeah, that was the first
12 I had heard of it.

13 Q. Wouldn't that be a very important matter in this case?

14 A. Sure.

15 Q. Of extreme importance, correct?

16 A. It could be.

17 Q. And you didn't testify to it in the two prior testimonies
18 that you had with the Grand Jury, the one in July of 2011 -- or
19 I mean, January of 2011 and July of 2009; you didn't mention
20 anything about that, did you?

21 A. Well, I couldn't have because I just told you that I first
22 heard about it last week.

23 Q. So, that means that information would have been withheld
24 for almost three years?

25 A. I don't think that's an accurate statement. I think it

1 was told to someone, but not me.

2 Q. Well, would you agree that that information was withheld
3 from law enforcement for three-and-a-half years or almost three
4 years?

5 A. Again, I don't think that's an accurate statement. I
6 can't speak to it because I was not the one who that
7 information was relayed to, but I don't think it was, as you
8 say, withheld for quite that long. I think it was sometime
9 sooner than that.

10 Q. And you testified that authorities found someone else's
11 DNA in Brink's?

12 A. I have been made aware of that fact, yes.

13 Q. And doesn't it appear almost that this testimony was
14 prompted from Mr. Doucette?

15 A. What are you insinuating?

16 Q. Well, I am trying to infer that if the government found
17 DNA that didn't belong to any of the participants, and it
18 belonged to someone else that they determined to be from the
19 Columbus area, and Mr. Doucette didn't say anything about any
20 DNA trip or anything, and then all of a sudden just before
21 trial, he comes up with this DNA trip?

22 A. Well, I don't think that he came up with it before trial.
23 It is my understanding that when he visited out here to testify
24 before the Grand Jury, whenever that was, that's when he
25 recollected that event, and it was relayed to the agents or

1 officers that he spoke with at the time. So, I don't know of
2 it. I can't speak -- you are asking the wrong person, in other
3 words.

4 Q. Okay. Do you know who the right person to ask would be?

5 A. No.

6 Q. Because if Doucette didn't come up with the DNA story, you
7 would have been left with an unaccounted-for party in the mix,
8 right?

9 A. Well, we would have to address that finding.

10 THE COURT: That calls for speculation. You don't
11 need to answer.

12 Q. (By Mr. Murphy) Do you know if this other party who had
13 the DNA, do you know if he was questioned?

14 A. I don't know.

15 Q. Now, did you ever receive any information that Nassor went
16 from picking up the cell phone jammer in Tennessee straight to
17 Ohio to scope out Brink's?

18 A. I was under the impression that those were two separate
19 trips.

20 Q. Do you know what the interval in between of them was?

21 A. Yeah. What he told me was that the first -- he said early
22 December he went to Memphis to pick up the jammer for you, and
23 then that you directed him to go back out and watch Brink's
24 overnight to see what time the last shift left and what time
25 the first shift came in, in the morning, and he believed that

1 was sometime early January.

2 Q. Okay.

3 A. That was the timeline that he relayed to me.

4 Q. Did anybody give you any information that that trip
5 happened one day at the same time?

6 A. No. I think -- well -- let me back up. I can't remember.
7 I'd have to listen to Doucette's statement. Doucette may have
8 speculated that it was one and the same, but I don't know he
9 knew that for certain. Again, from what he told me, he was
10 going off by what he had been told by you.

11 Q. But that would have been incorrect, though?

12 A. I don't know. I'd have to listen to what he told me, I
13 don't recall how he related it.

14 Q. Did you ever receive any information that the burglars had
15 problems with the truck on the morning of the burglary?

16 A. I think Doucette said something about having a hard time
17 starting it.

18 Q. And when did he say that?

19 A. I don't recall when that came up.

20 Q. And would you have testified to that in the Grand Jury?

21 A. I don't recall.

22 Q. Now, did anybody ever tell you in the course of your
23 investigation that Murphy said he "Murphed" Brink's?

24 A. I had never heard that expression before.

25 Q. You have never heard that?

1 A. No.

2 Q. So, it wouldn't be in any prior statement or any prior
3 testimony?

4 A. I have never heard that expression before.

5 Q. Okay. Did anybody give you any information on the
6 procedure of how to open an armored car door or an armored car
7 truck?

8 A. I know that there is a procedure, but I don't know what
9 the procedure is.

10 Q. Did anybody in this case ever give you information on how
11 to do it?

12 A. No. I think Rob Doucette, when he described the problems
13 that you and Joe Morgan were having inside, part of the
14 slow-down was figuring out the procedure to open up the trucks
15 so they could be moved, but he didn't claim to know that
16 procedure.

17 Q. And he didn't describe the procedure to you?

18 A. I don't know that he knew the procedure, or if he did, he
19 didn't describe it. Suffice it to say, there was some sort of
20 sequence of actions to open the door.

21 Q. Okay. Were you ever given any information that these
22 burglars were instructed not to touch any of the guns or
23 firearms?

24 A. Yes.

25 Q. Did you include that information in your Grand Jury

1 testimony or your --

2 A. I don't know if it was asked of me in Grand Jury, but I
3 can say that Rob Doucette did tell us that you instructed both
4 he and Joe Morgan not to touch a gun or look at a gun, that it
5 would only make matters worse if caught.

6 Q. Now, did you ever receive any information that Rob
7 Doucette was up for 100 hours on the weekend of the burglary?

8 A. He told me that they were awake for a long time, driving
9 out, resting for a little bit, doing the score and then driving
10 back. I don't know that he gave me a precise hour count, but I
11 got the impression that you guys were all awake for an awful
12 long time as did you this.

13 Q. Okay. So, if the burglars went out -- and I believe the
14 testimony was -- is that they slept in a hotel on the night of
15 the 16th, somewhere one hours or two hours before they got to
16 wherever they were going?

17 A. He said you guys stopped to rest at a hotel.

18 Q. Okay. That was on the night of the 16th?

19 A. Yeah.

20 Q. What night did he tell you that he got back on?

21 A. I believe it was right after you guys -- right after you
22 loaded all of the materials into the Warrendale unit and then
23 headed home to Lynn or for Lynn, that would have put you back
24 in Lynn sometime late on the 18th or early on the 19th.

25 Q. So, they slept in a hotel on the 16th, and they got back

1 on the 18th. What's the interval in between?

2 A. We are talking about 72 hours or thereabouts.

3 Q. Seventy-two hours?

4 A. Sure, something like that.

5 Q. The 16th was a Friday.

6 A. Mh-hmm.

7 Q. Okay. So, they would have woke up Saturday morning. So,
8 all day Saturday to Sunday would have been how many hours?

9 A. Okay. So, we are talking about 24, 36, 48 hours.

10 Q. Okay.

11 A. I have never heard 100 hours.

12 Q. You have never heard 100 hours?

13 A. No.

14 Q. But the timeline you are aware of only accounts for 36 or
15 maybe 40 hours?

16 A. Okay, okay.

17 Q. Now, are you aware of any alias that Joe Morgan may have
18 used?

19 A. He used an alias in relation to a Massachusetts crime, and
20 I don't know what it is off the top of my head, but I do know
21 that he did use an alias.

22 Q. If I mentioned the name "John", would that sound familiar?

23 A. It might, yeah, but give me a last name, though.

24 Q. Possibly beginning with a "C"? "John Cummings"?

25 A. No, it doesn't ring a bell. I know he did business with a

1 fence in downtown Boston with some precious metals, and he used
2 an alias, but it was unrelated. So, I don't know it off the
3 top of my head.

4 Q. Now, are you aware --

5 A. Oh, "John Lynch", it might have been.

6 Q. "John Lynch"?

7 A. There you go.

8 MR. MURPHY: Just a minute, Your Honor. I am going
9 to be finishing up.

10 THE COURT: Okay.

11 Q. (By Mr. Murphy) Now, are you aware that Mr. Murphy paid
12 his moving company employees in cash?

13 A. I think I heard that, yeah.

14 Q. Okay. Now, I believe there was earlier testimony in this
15 trial that somewhere in the Raymond storage facility that you
16 found a rental contract for the Pennsylvania bin?

17 A. Yes.

18 Q. Now, isn't it customary that the customer would receive
19 the contract?

20 A. I don't know what is customary, but presumably, you would
21 have a copy of it, sure.

22 Q. Okay. Now, you testified in regards to the GPS, that
23 there were a bunch of inputs on the GPS that you testified to?

24 A. Yes.

25 Q. Most of the inputs had numbers with addresses?

1 A. Yes.

2 Q. And you testified that there was one address that said
3 "Walnut Street"?

4 A. Yes.

5 Q. Is "Walnut Street" one of the main streets in Lynn?

6 A. No, I wouldn't say it is one of the main streets, but it
7 is a long street.

8 Q. Okay. And isn't it true that Walnut Street is a direct
9 exit off of Route 1? You have a Walnut Street exit?

10 A. Yes.

11 Q. And isn't it also true that you have a Walnut Street exit
12 off of Route 95?

13 THE COURT: Now, where is this going?

14 MR. MURPHY: Your Honor, this has to do with the GPS.
15 This is absolutely relevant.

16 THE COURT: All right.

17 Q. (By Mr. Murphy) Isn't that true, Mr. Costello?

18 A. Yeah, I think it does hit 95. I don't know if it is still
19 called "Walnut", but the street does continue.

20 Q. So, if someone was coming from out-of-town and didn't
21 know, you know, which way they were going or what they were
22 going to do or how to get there, Walnut Street would be one of
23 the main ways of getting back into Lynn off of 95 or Route 1?

24 A. Yes.

25 Q. Now, Murphy wouldn't need to know where he lived, right?

1 A. No, you know where you lived.

2 Q. Okay. And when that entry said on "Walnut Street", it
3 didn't say any specific number like "407 Walnut Street", did
4 it?

5 A. No, but when I am on a long trip and I am trying to get
6 home or out of a place that I am not all that familiar with, I
7 don't type in my exact street address to find home, I just type
8 in my town, and my GPS gets me pointed in a direction of the
9 highway. And then I can shut it off once I am driving because
10 I know where I am, so...

11 Q. Do you know Murphy to be a mover?

12 A. Yes.

13 Q. Do you know Murphy to do a lot of moving jobs in and
14 around the New England area?

15 A. I don't know how many you do. I know some moving jobs you
16 performed, but I can't quantify it. We really never got to the
17 bottom of truly how busy your business was.

18 Q. Okay. But is it fair to say that as a mover, Murphy would
19 know his way around the general Massachusetts area and
20 New England area?

21 A. Right, but Columbus is outside of that area.

22 MR. MURPHY: I have no further questions at this
23 time, Your Honor.

24 THE COURT: Thank you, Mr. Murphy.

25 MS. HILL: The Court's brief indulgence, Your Honor.

1 Thank you, Your Honor.

2 - - -

3 REDIRECT EXAMINATION

4 BY MS. HILL:

5 Q. Just a couple of quick questions, Agent Costello.

6 Mr. Murphy asked you a bunch of questions about other
7 individuals that you, perhaps, could have investigated. During
8 the course of your investigation, did you ever receive any
9 credible evidence that anyone other than Robert Doucette,
10 Joseph Morgan and Sean Murphy participated in the burglary of
11 Brink's on January 17th and 18th of 2009?

12 A. No.

13 Q. And what would you have done if you had received such
14 evidence?

15 A. We would have followed that up; we would have wanted to
16 identify the entire burglary crew.

17 MS. HILL: No further questions, Your Honor.

18 - - -

19 RECROSS-EXAMINATION

20 BY MR. MURPHY:

21 Q. Special Agent Costello, you do admit that you didn't
22 follow up anything to do with James Hennessey?

23 A. Because we had no credible information that he was part of
24 the burglary crew on -- the question was January 17th into the
25 18th of 2009.

1 Q. But you do admit that he was a part of this conspiracy?

2 A. From what Rob Doucette told me, he assisted him in moving
3 items from across town. Whether or not he truly was part of
4 the conspiracy depends on what he knew of the items that he was
5 moving. I don't know what his mindset was at the time, I don't
6 know what Mr. Doucette told him those items were.

7 Q. If you were moving them -- if Mr. Doucette came to you and
8 you opened up the storage bin, and you seen what was in that
9 storage bin, would you have known what was going on?

10 A. Well, Mr. Murphy, I am a FBI agent. I am probably a bit
11 more cynical than most people. I don't know Mr. Hennessey. He
12 may not ask a lot of questions.

13 MR. MURPHY: Thank you. No further questions.

14 THE COURT: Ms. Hill?

15 MS. HILL: No further questions, Your Honor.

16 THE COURT: Thank you, Agent Costello.

17 May I see counsel up here at the bench?

18 - - -

19 THEREUPON, there was a discussion at sidebar off the
20 record.

21 - - -

22 THE COURT: You may call your next witness.

23 MR. DOMINGUEZ: Your Honor, with the Court's
24 indulgence, we would like to read some stipulations into the
25 record as agreed to by the parties.

1 THE COURT: Okay. Let me explain that to the jury,
2 if you would, please. Stipulations are agreements between both
3 sides of a lawsuit or a case, both the defendant and the
4 government, as to certain facts. That means that those facts
5 are not disputed; however, you, as jurors, still get to weigh
6 them and determine how important those are, if important at
7 all. You still get to weigh them as to whether you believe
8 them or not believe them or what have you, but there is no
9 dispute that that is what these parties agree has happened.
10 And how they fit into the big picture or not is up to you.

11 Go ahead.

12 MR. DOMINGUEZ: Thank you, Your Honor. May it please
13 the Court, the following paragraphs, ladies and gentlemen, have
14 been stipulated to by the parties in this case. In other
15 words, the government and the defense have agreed that the
16 following facts are true and can be relied upon by you in
17 reaching a verdict in this case:

18 Forensic scientist, Mark L. Bryant, examined latent
19 lifts from the front of battery and Motorola walkie-talkie,
20 Government's Exhibit 1D-9. The subject latent lifts were
21 analyzed, according to appropriate latent impression
22 procedures, and compared to the inked fingers and palm prints
23 of Sean D. Murphy. The lifts from the battery and
24 walkie-talkie were identified as an impression of the left
25 thumb of Sean D. Murphy.

1 The Crime Lab report that reflected these results is
2 marked as Government's Exhibit 11-1.

3 Forensic scientist, Jamie F. Armstrong, examined DNA
4 swabs collected from the welder's mask, Government's Exhibit
5 1D-11, and the respirator, Government's Exhibit 1D-19.

6 THE COURT: Excuse me, Mr. Dominguez.

7 The batteries and the walkie-talkies?

8 MR. DOMINGUEZ: Those were Exhibit 1D-9.

9 THE COURT: 1D-9. And the next item?

10 MR. MURPHY: Excuse me, Your Honor. I think we have
11 a discrepancy here. May we speak with Mr. Dominguez?

12 THE COURT: Yes.

13 MR. DOMINGUEZ: There is no discrepancy, Your Honor.

14 May I pick up with the forensic scientist, Jamie F.
15 Armstrong?

16 THE COURT: Yes.

17 MR. DOMINGUEZ: Thank you. Forensic scientist Jamie
18 F. Armstrong examined DNA swabs collected from the welder's
19 mask, Government Exhibit 1D-11 and the respirator, Government's
20 Exhibit 1D-19.

21 The swabs were compared to an oral swab standard from
22 Sean D. Murphy. The comparisons were completed according to
23 appropriate DNA analysis procedures. The DNA types obtained
24 from the mask contained a mixture of at least two different
25 contributors, and Sean D. Murphy cannot be excluded as one of

1 those contributors.

2 The DNA from the respirator matched the DNA from Sean
3 D. Murphy. The Crime Lab Report reflecting these results is
4 marked as Government's Exhibit 12-1.

5 Further, the parties expressly stipulate to the
6 following facts in evidence:

7 1, the defendant, Sean Murphy, is the author of the
8 book entitled, "Master Thief, How to be a Professional Burglar"
9 that was found during the course of this investigation.

10 Also, on January 16, 2009, the defendant, Sean
11 Murphy, was present at Newmarket Storage in Newmarket, New
12 Hampshire at or about 10:30 a.m.

13 Those are the stipulations, Your Honor. Thank you.

14 THE COURT: Thank you.

15 MR. DOMINGUEZ: And we would call Janel Mead to the
16 stand, Your Honor.

17 THE COURT: Janel Mead.

18 - - -

19 JANEL MEAD

20 AFTER HAVING BEEN FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

21 - - -

22 DIRECT EXAMINATION

23 BY MR. DOMINGUEZ:

24 THE COURT: You may proceed.

25 MR. DOMINGUEZ: Thank you, Your Honor.

1 Q. Ma'am, would you please state your name and spell your
2 first and last name for the benefit of the jury and court
3 reporter?

4 A. My name is Janel, J-A-N-E-L, Mead, M-E-A-D.

5 Q. Ms. Mead, where are you presently employed?

6 A. Police officer with the Columbus Police Department.

7 Q. How long have you been a Columbus Police Department
8 Officer?

9 A. Twenty-six years.

10 Q. And what have been your duties over the last 26 years?

11 A. I worked ten years as a patrol officer, and then I worked
12 a year-and-a-half as a Burglary Detective and then 16 years in
13 the Crime Scene Search Unit.

14 Q. And are you currently working in the Crime Scene Search
15 Unit?

16 A. Yes, sir.

17 Q. And what are your duties as a Crime Scene Search Unit
18 Detective?

19 A. My unit works for the rest of the Detective Bureau. So,
20 anytime there is any type of crime scene that needs documented,
21 they call us. So, we work for Homicide, Assault Squad, Sexual
22 Special Victims Unit which is Sexual Crimes, Burglary, Robbery
23 Squad.

24 Basically, my duties involve documenting a crime scene,
25 collecting evidence and processing evidence.

1 Q. I am going to invite your attention, if I could, to
2 January 18 of 2009. Were you working that day?

3 A. Yes, sir.

4 Q. And were you called out to the Brink's warehouse facility
5 located at 1362 Essex?

6 A. Yes, sir.

7 Q. Were you familiar with that location?

8 A. I wasn't familiar -- I didn't know that Brink's was there
9 at that particular building. I had worked cruiser in that area
10 years before.

11 Q. Were you in the Patrol Unit?

12 A. Yes.

13 Q. Very well. Did you ever go over to the Brink's facility
14 on that date, ma'am?

15 A. Yes, I did.

16 Q. What was the purpose of you visiting that facility on that
17 date?

18 A. Lt. Woods, one of the burglary detectives or lieutenants,
19 had called and requested Crime Scene to come out and process a
20 burglary scene at that location.

21 Q. Did you, in fact, arrive there?

22 A. Yes, sir.

23 Q. And do you recall an approximate time you arrived there,
24 ma'am?

25 A. It was in the morning because it was an all-day scene.

1 So, I want to say 7:30ish, 7:45. It was early.

2 Q. So, to familiarize myself and the ladies and gentlemen of
3 the jury, when you say an "all-day scene", what do you mean by
4 that?

5 A. It was very detailed. There was a lot of work to do, an
6 extensive crime scene.

7 Q. Very well. And what did you notice when you first arrived
8 there, ma'am?

9 A. Well, there was a whole lot of police officers there. The
10 scene had suffered severe fire damage and smoke damage and
11 water damage. So, there was, also, a lot of -- it was a fairly
12 good-sized building. So, the entire scene encompassed,
13 obviously, the entire buildings and all of the grounds around
14 it. And as I said, there was fire damage, so that just makes
15 it worse.

16 Q. This jury, just so you know -- I am not trying to talk to
17 you about prior testimony in this trial -- but I believe it is
18 safe to say they have been fairly inundated with photographs of
19 the exterior and interior of that facility, ma'am. And I am
20 not going to show you all of those. But suffice it to say,
21 have you seen a series of photographs depicting both the
22 exterior and interior of the Brink's facility on that date?

23 A. Yes, sir.

24 Q. Very well. And what did you initially notice about the
25 facility -- and when I ask you this, in your role as a Crime

1 Scene Investigator/Processor, what did you notice about it?

2 A. Just how -- just how -- how messed up it was. Like I
3 said, there was an extensive scene. There was what, I believe,
4 was going to be evidence strewn throughout the building. There
5 was a lot of damage done on the interior of the building.
6 There were holes in the roof. There was fire damage, as I say.
7 So, it was just -- if you will pardon my French -- I called it
8 the crime scene from hell because it was going to be a very
9 extensive scene.

10 MR. DOMINGUEZ: May I approach the witness, Your
11 Honor?

12 THE COURT: You may.

13 Q. (By Mr. Dominguez) I have already told you, basically,
14 that I am not going to show you all of the photographs from
15 that facility, but I did just want to point out a few. I have
16 handed you Government's Exhibits 1A-95, 1A-98, 1A-99 and 1A-196
17 and I ask you to take a look at those, please.

18 A. Yes, sir.

19 Q. Do you recognize those?

20 A. Yes, sir.

21 Q. What are those, ma'am?

22 A. 1A-95 depicts one of the corners of the vault room,
23 looking up toward the ceiling, and it is showing footprints on
24 the wall.

25 Q. And I am going to ask you, do you recognize all four of

1 them?

2 A. Yes, I do.

3 Q. And are those photographs that were taken during the
4 course of the investigation of the crime scene of the Brink's
5 facility?

6 A. Yes, sir.

7 Q. And do they fairly and accurately depict what you saw on
8 that date?

9 A. Yes, sir.

10 MR. DOMINGUEZ: May I approach, Your Honor?

11 THE COURT: You may.

12 Q. (By Mr. Dominguez) I have just handed you, ma'am, what is
13 marked for identification purposes as Government's Exhibit 1C.
14 Do you recognize it?

15 A. Yes, sir.

16 Q. And what is that, ma'am?

17 A. This is our Evidence Collection List from that day.

18 Q. And what is an Evidence Collection List?

19 A. An Evidence Collection List is a list that we compile of
20 any evidence that we collect from a crime scene. So that if
21 the case is ever adjudicated, I have the specifics as to what
22 was collected, what time it was collected, what the item is and
23 where it was collected.

24 Q. Ma'am, with respect to showing the items of evidence that
25 were seized during the course of that investigation, would that

1 Evidence Log assist you as to the inventory that was compiled
2 by yourself and your fellow crime scene investigators on that
3 date?

4 A. Yes, sir.

5 Q. First of all, I am going to show you what you have
6 identified as Government Exhibit 1A-95, and I believe you
7 talked about some footprints?

8 A. Yes, sir. There is some footprints on the wall that
9 were -- there is a hole in the roof above this. You can't
10 quite see it in this photograph because it is kind of like a
11 drop ceiling, but the dark marks on the wall are -- were like
12 muddy shoe prints coming down.

13 Q. And I am going to take the liberty of quoting you, but I
14 believe you said something to the effect of the crime scene
15 from hell?

16 A. Yes, sir.

17 THE COURT: I didn't know that word was French.

18 MR. DOMINGUEZ: Thank you for your indulgence, Your
19 Honor.

20 Q. (By Mr. Dominguez) Government's Exhibit 1A-98?

21 A. Yes, sir. That photo was taken in the vault room.

22 Q. I will show you another one, 1A-99?

23 A. Same area.

24 Q. Now, ma'am, when you see those photographs and you talk
25 about processing a crime scene for evidence, and I believe you

1 said an all-day scene?

2 A. Uh-huh.

3 Q. What type of difficulties do you face when you process a
4 scene in that type of status?

5 A. As you can tell from the photograph, there was a lot of
6 debris laying around. There is also smoke damage and water
7 damage. So, when it comes to evidence processing, the
8 processing I do is strictly for latent fingerprints only. So,
9 anytime you have items left in a fire scene, due to heat and
10 smoke and water damage, that can very easily destroy latent
11 print evidence.

12 Q. Did you process the Brink's scene, if you will, for
13 prints?

14 A. Yes, sir, several of us did.

15 Q. Were you successful?

16 A. We obtained 16 lifts from the scene, the entire building.

17 Q. Now, when you talk about lifts, you know, we all see CSI
18 and shows like that. But, for instance, I have touched this
19 podium several times -- take my word for it -- throughout the
20 course of this trial, and I am going to assume that when you
21 sat at the witness stand, you have placed your hands about the
22 witness stand here just briefly. When we conduct ourselves in
23 that manner, touching tangible objects, will they necessarily
24 always leave latent prints of value?

25 A. No, sir, not always. There is several things that can

1 determine whether there is a latent fingerprint left. Number 1
2 is if you are wearing gloves. Number two, some people secrete
3 more -- have more secretions from their fingerprints than
4 others. We don't normally, as a race, secrete as much during
5 the wintertime than the summer. We just perspire more during
6 the summer.

7 Fingerprints are primarily made up of water with other
8 salts, proteins and acids, things like that, depending on -- so
9 having gone through a fire scene with heat, it can very easily
10 evaporate off. Also, the other thing is like this wood right
11 here (indicating) is fairly porous, meaning that even though it
12 has got a finish -- the finish on it would help a little bit,
13 but a non-porous surface, which is more like this plastic --
14 you can't pour water through it -- is a better surface than
15 woods, cloths and things like that. A lot of it will depend
16 upon the surface, also.

17 Q. You mentioned something about gloves?

18 A. You are not going to leave any prints if you are wearing
19 them.

20 Q. You answered my question.

21 A. Okay.

22 Q. Ma'am, do you recall seeing a half of a cigarette during
23 the course of your crime scene investigation?

24 A. Yes, sir, I do.

25 Q. And I am showing you Government's Exhibit 1A-96. Do you

1 recognize that, ma'am?

2 A. Yes, I do.

3 Q. And what does that purport to be?

4 A. That's a partially smoked cigarette. That was on -- the
5 item was sitting on like a gray utility push cart, that type of
6 thing.

7 Q. I am not going to suggest that what I have back here --
8 for the record, I am pointing to our evidence cart?

9 A. It is similar to that.

10 Q. This was apparently left on the top of a cart similar to
11 the (indicating) one here?

12 A. Yeah, it had couple of little trays there where you could
13 put a beverage.

14 Q. Not on the floor where someone might --

15 A. No.

16 Q. You know, tap it out with their foot? Did you do anything
17 with this cigarette, ma'am?

18 A. We collected it.

19 Q. Do you know whether or not it was submitted for DNA
20 analysis?

21 A. I don't.

22 Q. You would not have done that?

23 A. No, sir.

24 MR. DOMINGUEZ: Your Honor, with Agent Trombitas's
25 assistance, may he present some of the items to the witness?

1 THE COURT: He may.

2 Q. (By Mr. Dominguez) Detective Mead, Agent Trombitas -- and
3 he is standing there to assist -- he has placed some items of
4 evidence there to your right that I am going to have you take a
5 look at. I first ask you to take a look at Government's
6 Exhibit 1C-1.

7 MR. TROMBITAS: Can you describe the items, please?

8 MR. DOMINGUEZ: It is metal rods.

9 Q. (By Mr. Dominguez) Do you recognize that, ma'am?

10 A. Yes, sir.

11 Q. And what are they?

12 A. Metal rods. Actually, I saw these in the vault room. And
13 because there were some other tanks and associated items, I am
14 assuming that they were used in welding, but I don't know how
15 to weld, but we collected them due to because that's what we
16 thought they were, used in welding.

17 Q. Government's Exhibit 1C-2? It is a piece of pipe, Agent
18 Trombitas.

19 Do you recognize that, ma'am?

20 A. Well, I can't really tell what is in it.

21 Q. You can open it up, if you like.

22 A. Okay. All right. This is a piece of metal pipe that we
23 located outside what we call the turret room, which this was
24 actually in the loading bay area of the building, outside the
25 turret room, laying on the ground.

1 Q. Very well. Government's Exhibit 1C-3.

2 MR. TROMBITAS: Can you describe it?

3 MR. DOMINGUEZ: It would be in a bag, Agent
4 Trombitas, some dials from the vault door.

5 A. Yes, sir. These are three metal dials that appeared to
6 come off of the vault door. They were on the floor.

7 Q. (By Mr. Dominguez) Hold those up so the jury can see. And
8 those were in the area of the vault room, ma'am?

9 A. Yes, sir, on the floor.

10 Q. 1C-4. That would be the roof flashing, Agent.

11 A. Did you say the roof flashing? Okay. All right.

12 Q. Is there an exhibit sticker on there?

13 A. Yes, sir, 1C-4.

14 Q. Yes, that's it.

15 A. Yes. This is a piece of roofing material that was located
16 on the roof of the building. It has been cut.

17 Q. 1C-5?

18 A. This is what appeared to be -- this is an ADT alarm panel.

19 Q. 1C-6?

20 A. This is a Honeywell alarm panel, wall panel.

21 MR. DOMINGUEZ: Would you pick that up for the ladies
22 and gentlemen of the jury, Detective?

23 Q. (By Mr. Dominguez) And that was found within the facility
24 itself?

25 A. Yes, sir.

1 Q. And lastly, 1C-7?

2 A. This is a green steel cap off of some type of a large
3 tank. I guess an acetylene tank. That was laying in the vault
4 room on the floor.

5 Q. I show you, again, ma'am, 1A-99. Is that the same green
6 oxygen tank cap that you just identified?

7 A. Yes, sir.

8 Q. Now, ma'am, for the record, the items that you have
9 identified, Government's Exhibit 1C-1 through 1C-7 -- I didn't
10 ask you this with respect to each individual piece -- but
11 collectively, those that you have identified for these ladies
12 and gentlemen of the jury, are those substantially in the same
13 condition today as they were when they were seized by you and
14 your colleagues with the Crime Scene Unit on January 18th of
15 2009?

16 A. Yes, sir, they are.

17 MR. DOMINGUEZ: May I have a moment, Your Honor?

18 THE COURT: You may.

19 Q. (By Mr. Dominguez) I will take you back to the beginning
20 of your testimony. Upon your arrival, Detective Mead, at the
21 Brink's facility on January 18th of 2009 in the morning hours,
22 physically when you arrived there and you entered the building,
23 what was in the air? Was there anything in the air at all?

24 A. There was still some smoke in there.

25 Q. At the time you arrived there, were there still anything

1 burning at all?

2 A. No. It had -- pretty much everything had been
3 extinguished, but it was a fresh fire smell.

4 Q. Fresh smoke?

5 A. Oh, yeah.

6 Q. How strong was the smoke, do you recall?

7 A. I would say it was a heavy scent.

8 Q. A heavy scent?

9 A. As if a fire had recently been put out, and you were right
10 there.

11 Q. As you went into that facility and you have the fresh
12 scent of smoke -- I am not trying to get personal with you,
13 Detective -- but do you on occasion have a smoke?

14 A. Yeah, I smoke cigarettes.

15 Q. Would you have smoked a cigarette while you are in that
16 environment?

17 A. No, you don't smoke in crime scenes.

18 Q. Well, I understand that. But with the heavy smoke that
19 was in there -- and if that was not a crime scene -- is that a
20 place where you would have taken a smoke in that environment?

21 A. I am not following the question, sorry.

22 Q. Okay. There was heavy smoke?

23 A. There was still smoke from the fire that had been put out,
24 yes. Heavy smell of smoke from a fire, yes.

25 Q. Was it hard to breathe?

1 A. I didn't have any problem breathing.

2 MR. DOMINGUEZ: No further questions, Your Honor.

3 THE COURT: Mr. Murphy?

4 MR. MURPHY: Thank you, Your Honor.

5 - - -

6 CROSS-EXAMINATION

7 BY MR. MURPHY:

8 Q. Good afternoon, Ms. Mead.

9 A. Good afternoon, sir.

10 Q. You testified earlier that you collected this cigarette
11 and sent it in for DNA?

12 A. I collected and turned it into the property room. The
13 primary investigator is the one responsible to submit the lab
14 request.

15 Q. Are you privy -- or do you have any knowledge of what the
16 results of that test was?

17 A. No, sir, I don't.

18 Q. Now, you testified that you arrived on the scene on
19 January 18th at what time?

20 A. I don't know the exact time, I'd have to look at my
21 summary. I don't recall. It was in the morning sometime.

22 Q. I believe you said 7:45?

23 A. As I recall, it was early in the shift -- or I'm sorry --
24 not long after we got there that we were called. Let me
25 clarify, I come to work at seven, and we were called shortly

1 thereafter.

2 Q. So, it would be within an hour?

3 A. I'd have to look at the summary, sir.

4 Q. Would it have been within two hours?

5 A. If it was around 7:45, as I recall, it would have been
6 within an hour.

7 MR. MURPHY: May I have just one moment, Your Honor?

8 Q. (By Mr. Murphy) Ms. Mead, if the investigation had showed
9 that the employees of Brink's didn't even show up at Brink's
10 until 9 a.m. and then it took them a number of -- maybe almost
11 an hour to determine what happened, which would bring it around
12 at least almost ten o'clock, how could you have reported at
13 7:45?

14 A. Then, I am wrong on my time. It was later. The cops
15 arrived there, and then we were called. So, I'm sorry, sir, I
16 don't remember the exact time. I'd have to read my summary, I
17 know that it was in the morning.

18 Q. Did you see the building as it appeared? Was any of the
19 evidence disturbed by -- when you got there?

20 A. Well, let me put it this way. The scene had been
21 disturbed due to the fire and fire response. So, when I get
22 there, you know, I know a burglary occurred, but at that point
23 I can't really say what is going to be evidence or what is not
24 going to be evidence, okay? Until we go through the scene,
25 witnesses are talked to, the investigators get an idea of what

1 happened, then we start identifying pieces of evidence. But
2 the scene had initially been just damaged by the fire and fire
3 response.

4 Q. Well, the evidence that was actually at the scene upon
5 discovery of this crime?

6 A. Okay.

7 Q. It wouldn't have been disturbed -- or nothing would have
8 been moved until you actually viewed it?

9 A. Correct. What we do, once we first arrive, we meet with
10 the primary investigators, and they give us what we call a
11 walk-through, which is a physical walk-through the structure or
12 the building of the scene to indicate items that they know have
13 been moved or damaged or part of the scene or that need to be
14 collected. So, we do a walk-through, and they are passing on
15 information as to what they know happened.

16 Q. Okay. I will show you a picture.

17 A. Okay.

18 Q. And does that picture look familiar to you from the
19 morning of January 18th?

20 A. Yes, sir, it does.

21 Q. And when you got there, is that ladder in the same
22 position that it was when you appeared there?

23 A. That looks about right, as I recall. It was near that
24 door.

25 Q. Okay. So, to the best of your knowledge, when Brink's

1 and/or the police first observed this crime, that ladder was
2 there?

3 A. I don't know about that. It was right near there when I
4 got there.

5 Q. Okay.

6 A. I don't know what time it had been put there.

7 Q. Well, you testified that nobody would have disrupted any
8 of the evidence prior to your documenting the evidence?

9 A. Yeah, we try not to.

10 Q. Okay. So this wouldn't be something that somebody would
11 just put there, an officer?

12 A. Oh, yeah. I don't know. If an officer or somebody had
13 to -- for some whatever reason needed to get high up before I
14 got there, then that could have occurred. I don't know when
15 that was put there or who put it there. So, I can't really
16 answer your question.

17 Q. But that's your recollection of what you saw when you got
18 to the scene?

19 A. Yes, sir.

20 Q. Did you ever receive any information on how Brink's
21 actually was able to enter their building upon arrival on the
22 morning of January 18th?

23 A. I can't recall how they got in. I remember that one or
24 two of the exterior doors had been damaged, but I don't recall
25 how they got in.

1 Q. Okay. Did you ever receive -- did you ever observe any
2 evidence that anyone was actually inside the cash money vault
3 of Brink's? Did you ever find any evidence of that?

4 A. Well, the vault room had been disturbed as had the -- do
5 you mean the currency room?

6 Q. Well, the vault room, from what I understand, is the
7 office outside of the vault. And the vault itself is what
8 holds the money, the cash vault?

9 A. Okay, correct. So, in the vault room?

10 Q. No. Did you ever discover any evidence that anybody was
11 inside the vault itself?

12 A. Oh, yes.

13 Q. What evidence would that be?

14 A. Well, the vault door was burned. There was a huge hole in
15 it, and there was money missing from inside of the vault.

16 Q. Okay. And would this picture depict the vault as you
17 observed it on the morning of January 18th?

18 A. There is a little bit better photo than that, but, yeah,
19 there is damage to the door.

20 Q. But that's the size of the hole and the hole in the vault
21 that you observed when you got there?

22 A. Yeah, it was fairly large.

23 Q. Did you find any of Mr. Murphy's fingerprints inside of
24 Brink's building?

25 A. No, I didn't. Actually, I am not the one to make the

1 determination. I just collect them and turn them in.

2 Q. Oh, so you don't do the results?

3 A. I don't do the comparison, no, sir.

4 Q. Okay. And the roof panels, I believe they are
5 Government's Exhibit 1C-4? They are right there.

6 How do you believe they were removed? What tool, do you
7 think, cut that out?

8 A. I would think it would have to be something a little
9 heavier than tin snips because that's heavier than tin, but
10 some type of cutting instrument. I am not a great tool person,
11 sir.

12 Q. Oh, you are not?

13 A. No.

14 MR. MURPHY: Okay. Well, thank you very much,
15 Ms. Mead. I have no further questions.

16 THE WITNESS: Okay, sir. Thank you.

17 MR. DOMINGUEZ: No further questions, Your Honor.

18 THE COURT: Thank you very much. You are excused.

19 THE WITNESS: Thank you, sir.

20 MR. DOMINGUEZ: Your Honor, may we retrieve the
21 evidence?

22 THE COURT: Yes.

23 MR. DOMINGUEZ: Special Agent Harry Trombitas, Your
24 Honor.

25 THE COURT: Agent Trombitas.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

- - -

- - -

HARRY TROMBITAS
AFTER HAVING BEEN FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION

BY MR. DOMINGUEZ:

Q. Good afternoon.

A. Good afternoon.

Q. Sir, please state your name and spell your last name for the record, please.

A. My name is Harry W. Trombitas. That's spelled
T-R-O-M-B-I-T-A-S.

Q. You are familiar, Agent Trombitas, with the Brink's facility, burglary and investigation associated with it?

A. Yes, I am.

MR. DOMINGUEZ: May I approach, Your Honor?

THE COURT: You may.

Q. (By Mr. Dominguez) Agent Trombitas, I have handed you what has been marked for identification purposes and labeled as Government's Exhibits 1A-196 and 19-1. And I ask you if you recognize those?

A. Yes, I do.

Q. First, I am going to show you Government's Exhibit 1A-196. Do you recognize that, sir?

A. Yes, sir.

1 Q. And what is that?

2 A. It appears to be a partially smoked cigarette that was
3 laying on a tray.

4 Q. And is it your understanding that that cigarette was
5 collected per Detective Mead's testimony and placed into
6 evidence?

7 A. That's correct.

8 Q. And subsequent to it being placed into evidence, did an
9 investigator cause that cigarette to be examined for DNA?

10 A. Yes, sir. My partner, Detective Chris McIntosh with
11 Columbus PD, who has already testified, filled out a lab
12 request submitting that to the Columbus Crime Lab for DNA
13 analysis, and I believe that was on April 6th of 2009.

14 Q. And did -- was there a result associated with the DNA
15 analysis with respect to any of the targets of the
16 investigation -- that is Sean Murphy, Joe Morgan and Robert
17 Doucette?

18 A. Negative.

19 Q. So, there was no match?

20 A. No match. We actually received -- or Chris actually
21 received an e-mail back from an examiner, I believe, on
22 April 22nd, indicating that there was no -- simply put -- no
23 match.

24 Q. And as a part of your duties as an FBI agent, Agent
25 Trombitas, do you investigate most bank robbery offenses that

1 occur in the Greater Columbus Metropolitan Area?

2 A. Yes. I am a Violent Crimes Agent, so I investigate bank
3 robberies, kidnappings, serial murders, major break-ins like
4 this.

5 Q. I only ask that question for some background information
6 for the ladies and gentlemen of the jury. When a person has
7 been arrested and/or convicted, on occasion, is there DNA
8 collected for law enforcement purposes?

9 A. Yes, depending on the crime, but there is typically in
10 most states laws that are passed that indicate that if a person
11 is convicted of a felony, their DNA is taken and submitted to
12 -- we call CODIS, which is the Combined DNA Identification
13 System. And that information is entered into the system, and
14 at the time compared with all other DNA that's in the system to
15 see if there are any matches.

16 Q. Is it your understanding with respect to the cigarette
17 that you received the report on, that it had negative results,
18 Government's Exhibit 1A-196. Do you know whether or not the
19 DNA from that item was placed in CODIS as well?

20 A. Yes, it was. It was again at the time, and there was no
21 match.

22 Q. I am going to invite your attention to later in the
23 year -- well, strike that. In April of 2010, was a report
24 generated that there was, in fact, a match for the cigarette
25 DNA depicted in Government's Exhibit 1A-196?

1 A. That's correct. Almost a whole year later, Detective
2 McIntosh received notification that there was a preliminary
3 match to an individual that was identified -- and I can give
4 the name, if you like.

5 Q. Go ahead.

6 A. An individual by the name of Anthony L. Woods.

7 Q. And this information was made available to you just a few
8 weeks ago, correct?

9 A. That's correct. Now, Detective McIntosh had that
10 information and looked into it initially, but I didn't become
11 aware of it until a couple of weeks ago.

12 Q. And once you became aware of it, of course, the defense
13 was given all of that information by way of discovery?

14 A. That's correct.

15 Q. And you identified a person by the name of Anthony Woods,
16 and I ask you if you recognize anything contained in
17 Government's Exhibit 19-1?

18 A. That's the individual's picture, Anthony L. Woods.

19 Q. Did you look into, from an investigator's perspective, as
20 to this Anthony Woods?

21 A. Yes, absolutely. Again, Detective McIntosh, it had come
22 to his attention prior, and he did some initial checking, and
23 again, ruled the individual out. When I became aware of it, I
24 immediately started looking into it as well, just to make sure
25 that I was comfortable that we hadn't missed anything and was

1 actually was able to query the Columbus Police Department's
2 records and come up with a number of reports involving
3 Mr. Woods. And I can go on?

4 Q. Anything about where Mr. Woods may have been residing?

5 A. Okay. There were several reports in there. One of the
6 things that I first noticed was that he had, in his own words,
7 a history of mental illness. He had actually bounced around
8 from homeless shelter to homeless shelter, and in fact, one of
9 the reports indicated that he was actually staying at a
10 homeless shelter .2 miles from the Brink's facility on and off
11 at one point and had called the police department and
12 complained about the food selection at the homeless shelter,
13 and they responded and were able to transport him to another
14 homeless shelter, and that was pretty much the entire incident.

15 Q. And did you do any investigation as to where this Anthony
16 Woods may have been mid-January of 2009?

17 A. Yeah, I tried to find a location that would pinpoint where
18 exactly he was. I know he was from Georgia and queried all
19 kinds of Georgia records and the records up here, but I really
20 wasn't able to pinpoint him at that particular time. But,
21 again, I was comfortable, based on the information that I had
22 come up with that, again, he was most likely, just as he had
23 indicated, bouncing from homeless shelter to homeless shelter.

24 Q. Anything about a mental issue or a mental placement in
25 January?

1 A. I don't remember in January of that year, but there was a
2 report -- and I can't remember what the date was -- but where
3 he actually requested -- he had made contact with the police
4 and requested transportation to a facility that we call
5 Netcare, which is sort of a mental health facility, a
6 short-term mental health facility. I guess he wasn't taking
7 his medication or something, and he asked to be transported
8 there.

9 Q. Anything in his record that revealed that Anthony Woods
10 was in any way involved in any type of sophisticated, high-end
11 burglaries?

12 A. No. He does have a criminal record, and I can share that
13 based upon what I know.

14 Q. Please do.

15 A. He has a record from Georgia involving rape and sodomy.
16 He does have one arrest here in Columbus for burglary, and that
17 was -- I looked into the incident. And, apparently, he was
18 upset with his girlfriend and kicked in her door, and he was
19 charged by the Columbus Police Department for burglary. And
20 certainly nothing of this caliber or anything like that, no
21 commercial establishment burglary.

22 MR. DOMINGUEZ: May I have a moment, Your Honor?

23 THE COURT: Yes.

24 Q. (By Mr. Dominguez) In July of 2009, Mr. Doucette testified
25 before the Grand Jury; do you recall that?

1 A. Yes, I do.

2 Q. I hope I don't have the month wrong, but do you recall his
3 testimony before the Grand Jury?

4 A. Well, obviously, I wasn't inside.

5 Q. But you recall the time frame that he testified?

6 A. Yes, right.

7 Q. Around that time frame, did you, in fact, take
8 Mr. Doucette to the Brink's facility to assist you in your
9 investigation as to where individuals were stationed and how
10 things actually went down on January 17th and January 18th of
11 2009?

12 A. Yes, I did.

13 Q. Did you have any discussions with Mr. Doucette regarding
14 anything involving any prior trips that Mr. Murphy may have
15 made to the Columbus, Ohio area?

16 A. Yes. And, again, I don't know the exact date, but it was
17 around this time frame. And I do remember him talking about
18 supposedly Mr. Murphy making a trip to the Columbus area and
19 went to a homeless shelter to collect items that possibly
20 contained DNA that would be spread over the scene and possibly
21 make investigators think, you know, that it was committed by a
22 local individual.

23 Q. At that time -- so this jury is clear -- at that time,
24 Agent Trombitas, had anything come to light about any item that
25 was taken from the Brink's facility in an investigative

1 capacity on January 18th that presented DNA for comparison
2 purposes?

3 A. Yes. As far as I knew, we didn't have anything, and I,
4 again, had no knowledge that that had occurred at that point.

5 Q. And it wasn't until 2010, April of 2010, that this match
6 with this Anthony Woods was brought to light?

7 A. That's correct.

8 MR. DOMINGUEZ: I have no further questions, Your
9 Honor.

10 THE COURT: Mr. Murphy?

11 MR. MURPHY: Thank you, Your Honor.

12 - - -

13 CROSS-EXAMINATION

14 BY MR. MURPHY:

15 Q. Good afternoon, Agent Trombitas.

16 A. Good afternoon, Mr. Murphy.

17 Q. You testified that Anthony L. Woods had a conviction for
18 burglary?

19 A. Yes, sir.

20 Q. Now, you also went and testified about Mr. Doucette coming
21 out and going over the crime scene, and that's when he
22 mentioned to you something about this DNA trip?

23 A. Yes, sir.

24 Q. Did you testify before the Grand Jury in this matter?

25 A. Yes.

1 Q. Did you mention that in the Grand Jury?

2 A. I don't think that came up.

3 Q. Did you write a report in regards to your conversations
4 with Mr. Doucette?

5 A. No. If my recollection is correct, it occurred when we
6 were out walking around, and it may have been up on the tracks.
7 And, again, there was a lot of conversation going on that
8 wasn't recorded.

9 Q. I am not asking if it was recorded, but wouldn't it be
10 important if someone told you a detail of that importance, that
11 you would write it down in a report?

12 A. No. Again, that's something that you just file away as
13 something that you remember. It wasn't anything that I went
14 back and wrote a report about. There were a lot of things that
15 he told us on that walk around. And, again, at the time it
16 didn't appear to be that significant.

17 Q. Wouldn't that be considered a statement from Mr. Doucette,
18 that type of information that he gave you?

19 A. Again, there was a free flow of conversation as we are
20 walking all around the tracks and the area, the general area at
21 the Brink's facility. And, again, you know, information that,
22 you know, that you listen to, and again, there was no -- I
23 didn't see any need to write a report about that.

24 Q. I just -- I just don't understand it, something of that
25 importance, that you don't write it down. I just don't

1 understand it.

2 A. I guarantee, Mr. Murphy, if I had known I would be asked
3 today about it and that it would be an issue, I would have
4 written a report on it. But, again, based upon what I knew at
5 the time, it was not that significant of a matter that I needed
6 to run back and write a report on it.

7 Q. Okay.

8 MR. MURPHY: Thank you very much, Mr. Trombitas.

9 No further questions at this time, Your Honor.

10 MR. DOMINGUEZ: No redirect examination, Your Honor.

11 THE COURT: You are excused from the witness stand
12 but not from the building.

13 MR. DOMINGUEZ: Your Honor, we would like to move
14 certain items of evidence into evidence.

15 THE COURT: All right. Ladies and gentlemen of the
16 jury, this will be the time for a break. There are some legal
17 discussions that have to go on here. Remember not to discuss
18 this case with each other and not to make a decision, the case
19 has not been given to you. And the other items of the
20 admonition. Thank you. We will come and get you when this
21 discussion is over.

22 - - -

23 THEREUPON, the Jury exited the courtroom, and the
24 following proceedings were held in open court with the Court,
25 counsel and Mr. Murphy:

1 THE COURT: You may be seated.

2 MR. DOMINGUEZ: At this time, we would move for
3 admission of the government's exhibits, and we are working off
4 of the exhibit list.

5 We would move to admit Government's Exhibits 1A-1
6 through 1A-196.

7 THE COURT: Any objection?

8 MR. MURPHY: No, Your Honor.

9 MR. DOMINGUEZ: And we would move for admission of
10 Government's Exhibits 1B-1 through 1B-36, inclusive.

11 THE COURT: Any objection?

12 MR. MURPHY: None, Your Honor.

13 MR. DOMINGUEZ: 1C-1 through 1C-7?

14 THE COURT: Any objection?

15 MR. MURPHY: No, Your Honor.

16 MR. DOMINGUEZ: 1D-1 through 1D-7?

17 MR. MURPHY: No objection.

18 THE COURT: No objection.

19 MR. DOMINGUEZ: We did not -- just so the record is
20 clear, we did not identify, nor do we move to admit 1D-8.

21 So, we would go with 1D-9 through 1D-23, inclusive.

22 THE COURT: Objection?

23 MR. MURPHY: None, Your Honor.

24 MR. DOMINGUEZ: 1E-1 through 1E-10, inclusive?

25 MR. MURPHY: No objection, Your Honor.

1 MR. DOMINGUEZ: 2-1 and 2-2?

2 MR. MURPHY: No objection.

3 MR. DOMINGUEZ: 3-1?

4 MR. MURPHY: No objection, Your Honor.

5 MR. DOMINGUEZ: 4-1?

6 MR. MURPHY: No objection.

7 MR. DOMINGUEZ: 5-1 through 5-8, inclusive?

8 MR. MURPHY: The defense would object, Your Honor,
9 with regards to the Brian Hetherman identification.

10 MR. DOMINGUEZ: It was part of her records kept in
11 the normal course of business, Your Honor.

12 THE COURT: The objection is overruled. It will be
13 admitted.

14 MR. DOMINGUEZ: 6-1 through 6-7?

15 MR. MURPHY: The defense would object, Your Honor.

16 To renew the objection that we had before, I would
17 say on 6-2, that the key was seized not pursuant to any search
18 warrant, it was never authorized by any search warrant.

19 MR. DOMINGUEZ: 6-3.

20 MR. MURPHY: That's not what I have, I have 6-2.

21 MR. DOMINGUEZ: The key is 6-3.

22 MR. MURPHY: And I would renew my general objection
23 over the Brian Hetherman I.D. as there being insufficient
24 probable cause to search the residence.

25 THE COURT: It will be admitted over the objection as

1 well as those other exhibits are admitted without objection.

2 It would be a matter for the jury to weigh.

3 MR. DOMINGUEZ: I'm sorry, Your Honor. I didn't mean
4 to interrupt.

5 THE COURT: It will be a matter for the jury to weigh
6 all of these exhibits.

7 MR. DOMINGUEZ: 7-1, Your Honor.

8 MR. MURPHY: No objection, Your Honor.

9 MR. DOMINGUEZ: 8-1?

10 MR. MURPHY: No objection.

11 THE COURT: Admitted.

12 MR. DOMINGUEZ: 9-1 and 9-2?

13 MR. MURPHY: No objection, Your Honor.

14 THE COURT: Admitted.

15 MR. DOMINGUEZ: May I have a moment, Your Honor?

16 10-1 through 10-6?

17 MR. GRAEFF: What did you say? 10-1 through what?

18 MR. DOMINGUEZ: 10-6.

19 MR. MURPHY: No objection, Your Honor.

20 MR. DOMINGUEZ: 11-1?

21 MR. MURPHY: No objection, Your Honor.

22 MR. DOMINGUEZ: 12-1?

23 MR. MURPHY: No objection, Your Honor.

24 MR. DOMINGUEZ: 13-1 through 13-4?

25 MR. MURPHY: I would just renew my prior objection,

1 Your Honor, in regards to these letters.

2 THE COURT: Overruled. Those exhibits will be
3 admitted.

4 MR. DOMINGUEZ: 14-1 through 14-4?

5 MR. MURPHY: No objection, Your Honor.

6 THE COURT: Admitted.

7 MR. DOMINGUEZ: 15-1?

8 MR. MURPHY: Your Honor, I would object to this
9 document being introduced. As I said before, it is a violation
10 of the proffer, in violation of Kastigar.

11 THE COURT: In violation of what, sir?

12 MR. MURPHY: The proffer, Your Honor.

13 THE COURT: Oh. My ruling still stands, it will be
14 admitted.

15 MR. DOMINGUEZ: 16-1 through 16-3?

16 MR. MURPHY: No objection, Your Honor.

17 THE COURT: Admitted.

18 MR. DOMINGUEZ: 19-1?

19 MR. MURPHY: I don't have that.

20 MR. DOMINGUEZ: That's the photograph.

21 MR. MURPHY: No objection, Your Honor.

22 THE COURT: Will be admitted.

23 MR. DOMINGUEZ: Those would be the only documents
24 that we would be offering at this time, Your Honor.

25 THE COURT: Thank you. Is there a motion for

1 acquittal?

2 MR. MURPHY: Yes, Your Honor.

3 MR. DOMINGUEZ: And before we formally rest, Your
4 Honor, we would request that the Court at the appropriate time
5 take judicial notice that 1362 Essex Avenue, Columbus, Ohio, is
6 within the Southern Judicial District of Ohio.

7 THE COURT: The Court accepts that motion.

8 The defendant has moved for a Rule 29 motion for
9 acquittal. The Court has received a motion filed today,
10 Document 133. And specifically, the defendant moves for a not
11 guilty verdict on Counts 2, 3 and 4.

12 MR. MURPHY: Yes, Your Honor.

13 THE COURT: You are not on 1?

14 MR. MURPHY: Not on 1, Your Honor.

15 THE COURT: You may proceed.

16 MR. DOMINGUEZ: Thank you, Your Honor. With respect
17 to the standard for the Court's consideration of a motion for
18 judgment of acquittal, clearly, the case law is that the Court
19 looks in the light most favorable to the government as to the
20 evidence considered at trial.

21 We, of course, will argue before this jury sometime
22 tomorrow or Wednesday that we have met all of the elements of
23 each offense beyond a reasonable doubt. Counts 2 and 3, the
24 evidence has shown that Mr. Murphy did, indeed, request that
25 David Nassor travel in interstate commerce from the District of

1 Massachusetts to the Southern District of Ohio for the express
2 purpose of scoping out and scouting and surveying the Brink's
3 facility at 1362 Essex sometime during January of 2009.

4 It was for the express purpose of furthering the
5 unlawful activities, that being the interstate transportation
6 of stolen property. It was carefully planned and thought out.
7 And we believe that the government has met its burden with
8 respect to that count.

9 On Count 3, Your Honor, clearly, the evidence has
10 shown that Mr. Murphy and Mr. Doucette and Mr. Morgan traveled
11 in interstate commerce -- not only from the District of
12 Massachusetts to the Southern District of Ohio but also stopped
13 in Warrendale, Pennsylvania on January 17th of 2009 in order to
14 obtain carefully placed tools that had been placed there on or
15 about January 4th of 2009 by Mr. Murphy, who, again, traveled
16 in interstate commerce in order to participate in specific
17 unlawful activity, that would be the interstate transportation
18 of stolen property. We believe that Counts 2 and 3 are,
19 therefore, well-founded.

20 With respect to Count 4, we would rest on the record
21 established during these proceedings. Thank you, Your Honor.

22 THE COURT: The evidence that has been presented is
23 more than sufficient to go forward and ultimately send the case
24 to the jury for a decision. In addition to the government's
25 statements summarizing the highlights of their case, the

1 evidence includes testimony from law enforcement Officer
2 Christopher McIntosh; J.J. Mead with the Columbus Police
3 Department, and McIntosh is with the Columbus Police
4 Department; Steven Wohlgemuth; Michael McCall; Jason Costello;
5 Kristin Koch; and Harry Trombitas with the FBI and testimony
6 from co-conspirators Robert Doucette and David Nassor about the
7 defendant's involvement in the Brink's burglary as well as
8 administrators with companies such as storage facilities, a
9 bank, a hotel, Federal Express establishing the defendant
10 and/or his co-conspirators' connection to the tools and
11 preparation of the Brink's burglary. The information that has
12 been presented here in court through the testimony and exhibits
13 is substantial enough so that the jury could make a finding on
14 each of the three counts that the defendant Murphy is charged
15 with.

16 Accordingly, the defendant's motion for acquittal,
17 pursuant to Rule 29 of the Federal Rules of Criminal Procedure,
18 is denied.

19 MR. MURPHY: Your Honor? May I have a moment with
20 counsel?

21 THE COURT: Yes.

22 - - -

23 THEREUPON, an off-the-record discussion was held with
24 Court and counsel at sidebar.

25 - - -

1 THE COURT: A recent filing, however, was prior to
2 this motion regarding Mr. Murphy's position on the Motion for
3 Acquittal in addition to that and that will be included on the
4 record with the other reasons.

5 And the Court will correct its statement, too, that
6 even though the Motion for Acquittal was only on Counts 2, 3
7 and 4, the Court also rules that there is more than sufficient
8 evidence to go forward, also, on Count 1. For the record and
9 argument and a higher court, if that's the case, it will be
10 included. Is that sufficient, Mr. Murphy?

11 MR. MURPHY: Yes, Your Honor.

12 THE COURT: Is that sufficient, Mr. Graeff?

13 MR. GRAEFF: Yes, sir.

14 THE COURT: Let's take about a five-minute break here
15 for ourselves and then get back to work.

16 - - -

17 THEREUPON, a recess was taken.

18 - - -

19 THE COURT: Mr. Dominguez, have you rested?

20 MR. DOMINGUEZ: Your Honor, the government rests.

21 THE COURT: All right. The government rests.

22 Now, the defendant may go forward, if they wish, and
23 present a case or not, as the case may be. Mr. Murphy?

24 MR. MURPHY: The defense calls David Nassor, Your
25 Honor.

1 THE COURT: David Nassor has been called as a defense
2 witness.

3 Mr. Nassor, you are still under the oath as
4 previously administered.

5 - - -

6 DAVID NASSOR

7 AFTER HAVING BEEN PREVIOUSLY DULY SWORN, TESTIFIED AS FOLLOWS:

8 - - -

9 DIRECT EXAMINATION

10 BY MR. MURPHY:

11 Q. Good afternoon, Mr. Nassor. Mr. Nassor, did Mr. Murphy
12 sue you?

13 A. Yes.

14 Q. And did Mr. Murphy sue you for damage that was inflicted
15 upon his vehicle?

16 A. Yes.

17 Q. And was there a judgment in that case?

18 A. Yes.

19 Q. And was there any number amount that Mr. Murphy won for
20 the suit against you?

21 A. \$5,000.

22 Q. And, also, in regards to that incident, couldn't that
23 incident have been a criminal case, too?

24 A. I suppose, yes.

25 Q. Could you have been charged for larceny over 250 and

1 malicious damage over 250?

2 A. I guess so, yeah.

3 Q. Okay. Now, Mr. Nassor, you testified that you had a head
4 injury?

5 A. Yes.

6 Q. And how long were you in a coma for?

7 A. Thirty-something days.

8 Q. And when you woke up, could you talk?

9 A. A little bit.

10 Q. Could you walk?

11 A. A little bit.

12 Q. Did the doctors tell you that your injuries would affect
13 your ability to remember and/or to perceive events correctly?

14 A. Say that again.

15 Q. Did the doctors tell you that your head injury would
16 affect your ability to remember and/or to perceive incidents
17 correctly?

18 A. Yeah, a little bit.

19 Q. I have a document here which is from the Keeper of Records
20 from Massachusetts General Hospital ordering them to produce
21 your medical records. Do you have any objection to me entering
22 your medical records into evidence?

23 A. Not really, no.

24 Q. I would like to show you part of those medical records,
25 Mr. Nassor, and specifically up top here. It says that you

1 don't follow commands, do not open eyes, pupils are reactive to
2 light, and it refers to propofol. Are you familiar with that
3 drug, propofol?

4 A. Yeah.

5 Q. Where have you heard that before?

6 A. Michael Jackson.

7 Q. Okay. Now, you testified that after these burglars came
8 back from Lynn, that you never saw any money?

9 A. Say that again.

10 Q. You ever see any money from the Brink's burglary after the
11 burglars came back from Lynn? Did you physically ever see any
12 money?

13 A. No.

14 Q. Now, would you consider Mr. Murphy a security expert?

15 A. Somewhat, yeah.

16 Q. And are you familiar with any training that Mr. Murphy
17 might provide in regards to burglary or the security field?

18 A. Yeah, you wrote books on it or something. I mean, you
19 showed people how to do burglaries.

20 Q. Now, bringing your attention back to December of 2008, did
21 you spend a lot of time with Mr. Murphy?

22 A. Yes.

23 Q. Now, do you remember any specific items or specific
24 instances where Mr. Murphy lent Rob Doucette anything?

25 A. Just at Christmas.

1 Q. Okay. And what happened around Christmas?

2 A. You lent him your dad's stuff for Thanksgiving dinner or
3 at Christmastime -- it was either Christmas or Thanksgiving, I
4 am not sure which day.

5 Q. And what would that be?

6 A. Plates, stuff like that that affect dinner, dinnerware.

7 Q. Could it, you know, have been described as China?

8 A. Yeah, yeah, that's what it was.

9 Q. And you recall this because you observed this?

10 A. Yeah, we did it in my truck.

11 Q. Okay. Now, do you recall an e-mail that you sent to
12 Global Gadget?

13 A. Yes, I actually do, but I forgot about it until you
14 brought it up to me. I do remember that, though.

15 Q. And in that e-mail, did you tell Global Gadget that you
16 purchased a jammer in Tennessee?

17 A. Yes.

18 Q. And you were trying to purchase another one?

19 A. Yes.

20 Q. And what was Global Gadget's response when you finally got
21 a response from them?

22 A. I am not sure of the actual response.

23 Q. Did they tell you to go through the Northshore Company to
24 get it?

25 A. Yeah, yeah.

1 Q. Now, you have spent a lot of time with Mr. Murphy, you
2 have hung around him, you have known him for how long?

3 A. Since 1980, the early 80s.

4 Q. Okay. From what you know about Mr. Murphy -- I am just
5 going to ask you a question, what is Mr. Murphy's favorite
6 fast-food restaurant?

7 A. KFC.

8 Q. He practically lives off the stuff?

9 A. Pretty much.

10 THE COURT: I didn't hear the answer.

11 MR. MURPHY: He said "KFC", Your Honor, the Colonel.

12 A. Extra crispy.

13 Q. (By Mr. Murphy) I like that. Now, I will ask you a
14 question, based upon your knowledge of this group and your
15 knowledge of Joseph Morgan, Robert Doucette and Thomas Enquist
16 and all of this, do you know Robert Doucette to be an
17 experienced burglar?

18 A. I know he has done burglaries in the past, yes.

19 Q. Now, you discussed the lawsuit that Murphy filed against
20 you. Were there several court hearings in that lawsuit?

21 A. Yes.

22 Q. At those court hearings, did you actually get a chance to
23 speak with Mr. Murphy?

24 A. Yes.

25 Q. And when you spoke to Mr. Murphy in those lawsuits, did

1 you eventually, as they progressed, tell him the information
2 that you forwarded to authorities in regards to this Brink's
3 burglary?

4 A. Could you repeat that again?

5 Q. As the lawsuit progressed, in later hearings in the
6 lawsuit, did you tell Mr. Murphy at these court hearings what
7 you told law enforcement in regards to the Ohio burglary?

8 A. Yes.

9 Q. Now, you also testified earlier that you had delivered
10 certain items to the Newmarket Storage bin up in New Hampshire?

11 A. Correct.

12 Q. And I believe that you were talking about when you, Tom
13 Enquist and Joe Morgan stole all of the oxygen tanks?

14 A. Correct.

15 Q. And you were delivering them into storage?

16 A. Yes.

17 Q. Mr. Nassor, I am going to ask you, what is one of Tom
18 Enquist's aliases, if you know?

19 A. Something Mullen, Tom Mullen, maybe.

20 Q. If I show you this document from Newmarket Storage, would
21 this recollect your memory? Does that name sound familiar?

22 A. Yes.

23 Q. So, in fact, when you were delivering these oxygen tanks
24 that you, Tom Enquist and Joe Morgan stole and you were putting
25 them into Newmarket Storage, you were actually putting them

1 into Tom Enquist's bin?

2 A. I am not sure, I mean --

3 Q. Fair enough. Now, you also did some testimony about
4 two-way radios, Mr. Nassor. Do you remember that testimony?

5 A. Yes.

6 Q. Have you ever seen these two-way radios used in
7 Mr. Murphy's legitimate moving business?

8 A. Yes.

9 Q. How would they be used?

10 A. Just to coordinate what is going on as far as moving
11 furniture and stuff like that.

12 Q. If somebody was doing a commercial move for moving a
13 company, and they were moving up in a high-rise building on
14 different floors, and the truck was down below, and they were
15 determining what was going to go up and what was going to come
16 down, would they be using the two-way radios for that?

17 A. Yeah. I guess so, yeah.

18 THE COURT: What do you mean you "guess so"?

19 THE WITNESS: I mean, that's what they would be used
20 for, yeah. I have been on jobs but never on a high-rise like
21 that, but I just seen them used doing moves.

22 THE COURT: You have seen that done?

23 THE WITNESS: Yeah, I have seen them used. Not like
24 he was saying, a high-rise.

25 THE COURT: But you have seen him use them?

1 THE WITNESS: I have seen his workers use them, yes.

2 THE COURT: Okay.

3 Q. Now, Mr. Nassor, did Mr. Murphy ever tell you that he was
4 going to --

5 MR. DOMINGUEZ: Objection.

6 THE COURT: Sustained, hearsay.

7 Q. (By Mr. Murphy) Do you recall testifying at the Grand
8 Jury?

9 A. Yes.

10 Q. Do you recall stating in the Grand Jury that Murphy did
11 not tell you why he wanted you to go scope Ohio?

12 A. Not really. I mean, I am sure if I said it, it is written
13 down.

14 Q. Okay.

15 MR. MURPHY: Just one second, Your Honor.

16 Q. (By Mr. Murphy) And, also, Mr. Nassor, when you testified
17 at this trial -- you testified that Murphy never told you that
18 he did the Brink's burglary?

19 A. That's correct.

20 Q. Now, you also testified in regards to observations that
21 you made in regards to items -- things that happened at Tom
22 Enquist's house and at the moving warehouse. Specifically, at
23 Tom Enquist's house, you testified that you observed Mr. Murphy
24 wearing one of the welding masks while you were cutting up the
25 train wheel?

1 A. Correct.

2 Q. And you testified that while Mr. Murphy was painting his
3 warehouse in Lynn, Massachusetts, you observed him wearing the
4 respirator when he was painting his warehouse?

5 A. Correct.

6 Q. Mr. Nassor, you testified about these Lynn Breakers. You
7 testified that there was probably about 150 of them?

8 A. Probably well over 100.

9 Q. And are you aware of any information that any of these
10 Lynn Breakers had tried to steal Murphy's 100 watt jammer?

11 A. Yes.

12 Q. You are aware of that?

13 A. Yes, firsthand.

14 Q. Does the name "James Hennessey" ring a bell to you?

15 A. Yes.

16 Q. Do you know James Hennessey?

17 A. I know of him, I know who he is, yeah. I have met him
18 several times.

19 Q. And based upon your knowledge of this group and
20 Mr. Hennessey, is he a part of this criminal group?

21 A. I believe so, yes.

22 Q. Now, Mr. Nassor, I want to show you a couple of pieces of
23 evidence. I believe it is Government's Exhibit 1-4-C (sic)?
24 Do you have that?

25 MR. MURPHY: Can you show them to the witness,

1 please, Mr. Trombitas?

2 THE COURT: It is all right, in the interests of
3 time.

4 Q. (By Mr. Murphy) Can you see those, Mr. Nassor?

5 A. Yes.

6 Q. What do those appear to be?

7 A. A roof deck.

8 Q. And from your experience, what type of tool would cut that
9 roof deck out?

10 THE COURT: What experience would that be?

11 MR. MURPHY: His experience in cutting roof, Your
12 Honor?

13 THE COURT: Well, do you know anything about that?

14 THE WITNESS: Yes, I do.

15 THE COURT: Oh.

16 A. Say that again.

17 Q. (By Mr. Murphy) What tool do you believe would cut those
18 roof decks out?

19 A. Either a deck saw or a skill saw. A skill saw, probably.

20 Q. A skill saw?

21 A. Correct. And from the jagged cuts, I would say a skill
22 saw.

23 Q. Now, you also testified that in regards to the thermal
24 rods that -- who do you believe purchased those thermal rods?

25 A. JoMo, Joe Morgan.

1 Q. Okay. And do you know through firsthand experience
2 whether Murphy trained Joe Morgan in his art that he performs?

3 A. Yes.

4 Q. And do you know if Murphy trained Robert Doucette in the
5 art?

6 A. Yes.

7 Q. And how about yourself?

8 A. Yes.

9 THE COURT: Trained in the what?

10 MR. MURPHY: The art, Your Honor.

11 THE COURT: The art?

12 MR. MURPHY: Yes.

13 THE COURT: The art of what?

14 MR. MURPHY: The art of burglary, Your Honor. It is
15 a term.

16 Q. (By Mr. Murphy) Now, Mr. Nassor, throughout all of the
17 information that you have heard and personal knowledge in this
18 case, from back in December of 2008 all of the way up until the
19 present, have you ever heard any information about a storage
20 bin in Ohio?

21 MR. DOMINGUEZ: Objection.

22 THE COURT: Well, overruled. I will hear the answer.

23 A. Say it again.

24 Q. (By Mr. Murphy) Have you ever heard any information from
25 anybody, that anybody had ever mentioned a storage bin in Ohio?

1 THE COURT: In connection with what? That's a pretty
2 board question.

3 MR. MURPHY: In connection with this crime.

4 THE COURT: All right.

5 Q. (By Mr. Murphy) If you can't recall, you can't recall.

6 A. I don't know if it was specifically for this crime or not.
7 I don't know.

8 Q. But have you heard someone along the line mention a
9 storage bin in Ohio?

10 MR. DOMINGUEZ: Objection, Your Honor.

11 THE COURT: Sustained.

12 MR. MURPHY: I have no further questions, Your Honor.

13 THE COURT: All right.

14 - - -

15 CROSS-EXAMINATION

16 BY MR. DOMINGUEZ:

17 Q. Mr. Nassor, Mr. Murphy asked you about what it would take
18 to cut roofing such as that (indicating exhibit)?

19 A. Yes.

20 Q. You responded?

21 A. Correct.

22 Q. Who else in this room would know what it would take to cut
23 a roof like that?

24 A. Someone who has cut one before.

25 Q. Anyone that you are familiar with, in this room, that

1 would know how to cut a roof like that?

2 A. Sean.

3 Q. And Sean did send you out to scout out the Brink's
4 facility in early January of 2009, that was your testimony,
5 correct?

6 A. Correct.

7 Q. He specifically asked you to do that? Yes?

8 A. Yes.

9 Q. Now, there was a question asked, I believe, something to
10 the effect of, did you know why you were scouting out the
11 Brink's facility. Do you know why you were scouting out the
12 Brink's facility?

13 A. Yes.

14 Q. And what was that for?

15 A. Someone was going to break into it.

16 Q. And this man, Sean Murphy, specifically sent you to
17 perform that task; is that correct?

18 A. Correct.

19 Q. Now, let's talk about the Memphis, Tennessee trip, sir.
20 Stay with me for -- just for a minute. I am only going to be
21 with you for about three minutes.

22 A. All right.

23 Q. Who sent you to Memphis to pick up the cell phone jammer?

24 A. Sean.

25 Q. Okay. Now, he talked about this e-mail that you sent to

1 Global Gadget. Did you purchase the Global Gadget cell phone
2 jammer, sir, that you picked up on December 3rd of 2008? Did
3 you purchase it?

4 A. No.

5 Q. You would have participated in that Brink's burglary if
6 Sean Murphy had asked you to, wouldn't you have?

7 A. Yes.

8 Q. Why didn't he ask you to?

9 A. Because of my head injury.

10 Q. As a matter of fact, Sean Murphy was aware of all of these
11 medical records and the damage to your head, and you, frankly,
12 couldn't stand up to the job, could you?

13 A. No.

14 Q. But you would have. Back it up to 2009, if Sean Murphy
15 had asked you to participate, like he asked Joseph Morgan and
16 Robert Doucette, you would have jumped at the chance, wouldn't
17 you?

18 A. Probably, yeah.

19 Q. No question about it, correct?

20 A. Correct.

21 MR. DOMINGUEZ: No further questions, Your Honor.

22 - - -

23 REDIRECT EXAMINATION

24 BY MR. MURPHY:

25 Q. Mr. Nassor, in your e-mail you told Global Gadget that you

1 did purchase the jammer, didn't you? And you were looking to
2 purchase another one?

3 A. Do you have the letter? I haven't seen it.

4 THE COURT: In the interests of time --

5 MR. MURPHY: A couple of minutes, Your Honor.

6 THE COURT: -- Mr. Nassor, do you remember sending
7 the e-mail?

8 THE WITNESS: I just remembered about it today,
9 believe it or not. I forgot completely about it until earlier
10 today. I do remember now that, yes, that I did.

11 THE COURT: Did you get a response to your e-mail?

12 THE WITNESS: I got a response, but it wasn't one
13 that I wanted to hear.

14 Q. (By Mr. Nassor) Does that recollect your memory,
15 Mr. Nassor?

16 A. Yes.

17 Q. And you are stating here that you wanted to purchase
18 another one?

19 A. Correct.

20 Q. Why is that?

21 A. Because I didn't have the one that I purchased.

22 Q. What were you going to do with one if you actually got
23 another one?

24 A. Do another crime.

25 Q. So, you were ready, willing and able to go out and do

1 another crime as of February 22, correct?

2 A. Correct.

3 MR. MURPHY: Thank you. No further questions.

4 MR. DOMINGUEZ: Nothing further, Your Honor.

5 THE COURT: You may step down.

6 We are going to quit at 4:30.

7 MR. MURPHY: Your Honor, the defense calls Agent
8 Harry Trombitas.

9 THE COURT: All right. Mr. Trombitas, you are under
10 the oath previously administered.

11 THE WITNESS: Yes, sir.

12 - - -

13 HARRY TROMBITAS

14 AFTER HAVING BEEN PREVIOUSLY DULY SWORN, TESTIFIED AS FOLLOWS:

15 - - -

16 DIRECT EXAMINATION

17 BY MR. MURPHY:

18 Q. Good afternoon again, Mr. Trombitas.

19 A. Good afternoon.

20 Q. Mr. Trombitas, were you one of the agents that responded
21 to the Brink's burglary on January 18th of 2009?

22 A. Yes, I am.

23 Q. About what time did you get there?

24 A. I remember getting the phone call, I was coming out of
25 church that morning, it was probably around 11:30. And it was

1 a Brink's employee who said that they had had a burglary and
2 wanted me to respond.

3 Q. Now, did you see the picture of the ladder as it appeared
4 in that picture that I showed earlier today?

5 A. Yes, I saw the picture.

6 Q. And was that ladder -- based upon the information that you
7 have -- was that ladder in that position when the burglary was
8 discovered?

9 A. When the burglary was discovered by the Brink's employee?

10 THE COURT: He wasn't there when the burglary was
11 discovered.

12 A. Again, I wasn't there until later.

13 Q. (By Mr. Murphy) When you got there, that's where the
14 ladder was?

15 A. I don't recall if the ladder was there or not.

16 Q. Okay. And throughout this trial, I have showed several
17 times a picture of the vault with the hole in it. Is that the
18 way the vault appeared when you got there?

19 A. To my knowledge, yes, that's the way it appeared when I
20 got there.

21 Q. And did you have any information that it had been altered
22 at all?

23 A. No, I know that there had been some activity by the Fire
24 Department, but I have no idea what they did. They were there
25 well before I got there.

1 Q. Okay. Now, the hole in the vault that is shown in that
2 picture, that's pretty big, don't you think?

3 A. Yeah, it appears to be pretty big-sized.

4 Q. It looks like someone even the size of yourself could go
5 in and out of it very easily, does it not?

6 A. That's possible. Again, I didn't see a scale or anything
7 by the cut, so I can't tell you, you know, how big it really
8 was based on that picture. But from my memory, it was a larger
9 hole.

10 Q. And you heard the testimony of Robert Doucette in this
11 trial?

12 A. Yes, sir.

13 Q. And you heard the testimony that the hole wasn't big
14 enough for him to get in?

15 A. That the hole wasn't big enough for him to get into?

16 Q. For him to get in?

17 A. I don't recall whether the discussion was about him
18 getting in the hole or not.

19 Q. Okay.

20 A. I remember he talked about you.

21 Q. No, I understand that, but his testimony was that he was
22 too big to fit through the hole?

23 A. No, I don't really remember that for sure.

24 Q. Okay. Fair enough. And do you recall how Brink's
25 actually got in their building?

1 A. I remember what I was told.

2 Q. Okay.

3 A. Again, the employees that showed up couldn't get in
4 through their regular doors, and they ended up calling one of
5 the other supervisors who came to the scene. I think together
6 they determined that the only way they could get in was to
7 force the garage door open. And so several employees actually
8 lifted up the garage door, and it came right up.

9 Q. And so they got in through the garage?

10 A. That's my understanding.

11 Q. Okay. And in with regards to the doors, how many doors
12 were glued at Brink's?

13 A. Based upon my recollection, I believe that there were two,
14 but one for sure.

15 Q. Two, but one for sure. And besides the testimony of Rob
16 Doucette, do you as the FBI have any other evidence that places
17 me in or around Brink's?

18 A. No.

19 Q. And Special Agent Trombitas, do you have any opinion on
20 how those roof panels were cut out?

21 A. Do I have an opinion?

22 Q. Yes.

23 A. Some type of cutting instrument.

24 Q. Like in regards? What would you say what kind of cutting
25 instrument?

1 A. That's pure speculation. That's so foreign to me, I
2 wouldn't know what to say.

3 Q. And there was some testimony here that there were some
4 inner layers of the vault door. Does the government have any
5 pictures of those inner layers of the vault door that you are
6 aware of?

7 A. Just the crime scene photos that were taken. I think, if
8 I recall correctly, appeared to show a multi-layer door, but as
9 far as the individual, you know, makeup of the door, no.

10 Q. Okay. I am moving through this fast so we can get through
11 this. Did you canvass the area in and around Brink's to see if
12 you could find any eyewitnesses?

13 A. Yes, we did. We did an extensive neighborhood canvass.

14 Q. And did you find any witnesses who had eyewitness
15 testimony with regards to this crime?

16 A. No.

17 Q. And you testified that there was a homeless shelter how
18 far away from Brink's?

19 A. According to Google maps, when I learned the address, I
20 plugged it in and compared the distance between Brink's and the
21 homeless shelter, which I believe is on Eighth Avenue, and it
22 said .2 miles.

23 Q. Point two, that's not very far?

24 A. Not very far at all.

25 Q. And do most people at the homeless shelter have vehicles

1 that they travel in, to your knowledge?

2 A. That would be pure speculation on who was there.

3 Q. Okay. Is it accurate to say that most homeless people
4 would be walking on foot?

5 A. That's a fair assessment.

6 Q. Okay. And do you know how many people reside at that
7 homeless shelter, if you know?

8 A. No, I don't.

9 Q. Did you actually go to the homeless shelter and interview
10 anybody there for the burglary?

11 A. No, sir.

12 Q. And would you know what the average stay in that homeless
13 shelter would be?

14 A. I would not.

15 Q. And for the most part, this case was basically solved from
16 the Boston office with Special Agent Jason Costello?

17 A. He certainly played a major part of it.

18 Q. Okay. Did you debrief Mr. Nassor or Mr. Doucette at all
19 in this case?

20 A. I mean, I have had conversations with them, but no, those
21 were done in Boston.

22 Q. Okay. And were you present when the Pennsylvania storage
23 bin was searched?

24 A. No, sir.

25 Q. And were you present when the Raymond, New Hampshire

1 storage bin was searched?

2 A. No, sir.

3 MR. MURPHY: Thank you, Agent Trombitas.

4 THE WITNESS: Thank you.

5 MR. DOMINGUEZ: Briefly, Your Honor.

6 THE COURT: Yes.

7 - - -

8 CROSS-EXAMINATION

9 BY MR. DOMINGUEZ:

10 Q. Agent Trombitas, so the ladies and gentlemen of the jury
11 can be aware, this Brink's burglary that you have discussed
12 here this afternoon, it was a fairly significant event on
13 January 17th and January 18th of 2009?

14 A. Yes, it was.

15 Q. For about a minute or so, could you tell the ladies and
16 gentlemen of the jury how you went about conducting your
17 investigation when you believed that it may have been someone
18 local who committed the crime?

19 A. Sure. Again, we responded to the scene, the FBI along
20 with the Columbus Police Department, we worked together. I
21 know, again, that the scene was processed. We got together
22 with the investigators. I know Detective McIntosh was there,
23 and I knew that he was going to be the lead and assign the
24 case. We came up with a game plan. We, basically, took a
25 three-pronged approach.

1 The first consideration that we had was there was a
2 possibility that Brink's employees could be involved. So, we
3 wanted to interview them and maybe select the ones that we felt
4 were significant or would have the ability to be involved, and
5 we further investigated those individuals.

6 At the same time, we took a look at the possibility that
7 there were local burglars involved. So, we worked with the
8 media in getting that information out, advertising the fact
9 that the Brink's had been broken into. I think at one point
10 Brink's fairly early on came up with a reward, a substantial
11 reward for information leading to the identification and arrest
12 of the individuals involved.

13 Q. So, you spent a lot of man-hours investigating?

14 A. Oh, absolutely.

15 Q. And there was a reward put out?

16 A. Yes, sir.

17 Q. And you wouldn't have guessed that it might have emanated
18 from Boston, Massachusetts at that time?

19 A. No, but the third prong of that, though, is I did send out
20 the information nationwide, indicating that we had this
21 significant burglary of a commercial establishment and then
22 made contact with fellow agents around the country to see if
23 they had experienced anything similar.

24 Q. And it wasn't until you received a phone call from Special
25 Agent Costello, who had debriefed David Nassor, that you were

1 able to put together the Boston connection?

2 A. That's correct.

3 Q. Which has led us here for the last several days?

4 A. That is correct.

5 MR. DOMINGUEZ: No further questions, Your Honor.

6 THE COURT: Anything in that area?

7 MR. MURPHY: Just one question, Your Honor. Thank
8 you.

9 - - -

10 REDIRECT EXAMINATION

11 BY MR. MURPHY:

12 Q. Special Agent Trombitas, did you ever find out who the
13 inside guy was at Brink's?

14 A. There was no inside guy.

15 MR. MURPHY: All right. Thank you very much.

16 THE WITNESS: Okay.

17 THE COURT: Thank you. You may return to your seat.

18 THE WITNESS: Thank you.

19 THE COURT: May I see counsel?

20 - - -

21 THEREUPON, an off-the-record discussion was held at
22 sidebar.

23 - - -

24 THE COURT: Ladies and gentlemen of the jury, that
25 concludes your work for today. I would anticipate that there

1 will be another witness, one witness tomorrow, but not of the
2 length that some of these witnesses have been, and then the
3 attorneys will be making their final argument to you tomorrow,
4 at some point tomorrow, and the case will be given to you.

5 Let me remind you, again, not to discuss the case
6 with each other or anyone else during the course of the trial.
7 This includes the attorneys or anyone else involved in the
8 case, reporting any violations to court personnel. Do not form
9 or express an opinion until you are in deliberation. Do not
10 make any investigation at home or run any experiments or look
11 up anything or anywhere on the computer, and do not discuss
12 this case with your family and friends until you are discharged
13 by the Court. Do not observe any media reports on TV,
14 newspaper or radio reports. Of course, you are to keep wearing
15 your juror badges, keep doing that. And tomorrow, we will see
16 you in the morning. Thank you very much.

17 - - -

18 THEREUPON, the evening recess was taken to be resumed
19 on Tuesday, October 25, 2011 at 9:30 a.m.

20 - - -
21
22
23
24
25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

C E R T I F I C A T E

United States of America
Southern District of Ohio

We, Georgina L. Wells and Denise N. Errett, Official
Court Reporters of the United States District Court for the
Southern District of Ohio, do hereby certify that the foregoing
186 pages constitute a true and correct transcription of our
stenographic notes taken of the proceedings held in the City of
Columbus, Ohio, in the matter therein stated, on the 24th day
of October, 2011.

In testimony whereof, we hereunto set our hands on
the 23rd day of March, 2012.

/s/ Georgina L. Wells

Georgina L. Wells, RMR
Official Court Reporter
Southern District of Ohio

/s/ Denise N. Errett, FCRR

Denise N. Errett, FCRR
Official Court Reporter
Southern District of Ohio